

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

FORM 10-Q

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

For the quarterly period ended June 30, 2023

OR

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

For the transition period from _____ to _____

Commission File Number 001-5507



Tellurian Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

06-0842255

(I.R.S. Employer Identification No.)

1201 Louisiana Street, Suite 3100, Houston, TX

(Address of principal executive offices)

77002

(Zip Code)

(832) 962-4000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol	Name of each exchange on which registered
Common stock, par value \$0.01 per share	TELL	NYSE American LLC
8.25% Senior Notes due 2028	TELZ	NYSE American LLC

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No "

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes x No "

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. "

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

As of August 7, 2023, there were 581,819,726 shares of common stock, \$0.01 par value, issued and outstanding.

Tellurian Inc.
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Cautionary Information About Forward-Looking Statements

The information in this report includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements, other than statements of historical facts, that address activity, events, or developments with respect to our financial condition, results of operations, or economic performance that we expect, believe or anticipate will or may occur in the future, or that address plans and objectives of management for future operations, are forward-looking statements. The words “anticipate,” “assume,” “believe,” “budget,” “contemplate,” “continue,” “could,” “estimate,” “expect,” “forecast,” “initial,” “intend,” “likely,” “may,” “plan,” “possible,” “potential,” “predict,” “project,” “proposed,” “should,” “will,” “would” and similar terms, phrases, and expressions are intended to identify forward-looking statements. These forward-looking statements relate to, among other things:

- our businesses and prospects and our overall strategy;
- planned or estimated costs or capital expenditures;
- availability of liquidity and capital resources;
- our ability to obtain financing as needed and the terms of financing transactions, including for the Driftwood Project;
- revenues and expenses;
- progress in developing our projects and the timing of that progress;
- attributes and future values of the Company’s projects or other interests, operations or rights; and
- government regulations, including our ability to obtain, and the timing of, necessary governmental permits and approvals.

Our forward-looking statements are based on assumptions and analyses made by us in light of our experience and our perception of historical trends, current conditions, expected future developments and other factors that we believe are appropriate under the circumstances. These statements are subject to a number of known and unknown risks and uncertainties, which may cause our actual results and performance to be materially different from any future results or performance expressed or implied by the forward-looking statements. Factors that could cause actual results and performance to differ materially from any future results or performance expressed or implied by the forward-looking statements include, but are not limited to, the following:

- the uncertain nature of demand for and price of natural gas and LNG;
 - risks related to shortages of LNG vessels worldwide;
 - technological innovation which may render our anticipated competitive advantage obsolete;
 - risks related to a terrorist or military incident involving an LNG carrier;
 - changes in legislation and regulations relating to the LNG industry, including environmental laws and regulations that impose significant compliance costs and liabilities;
 - governmental interventions in the LNG industry, including increases in barriers to international trade;
 - uncertainties regarding our ability to maintain sufficient liquidity and attract sufficient capital resources to implement our projects;
 - our limited operating history;
 - our ability to attract and retain key personnel;
 - risks related to doing business in, and having counterparties in, foreign countries;
 - our reliance on the skill and expertise of third-party service providers;
 - the ability of our vendors, customers and other counterparties to meet their contractual obligations;
 - risks and uncertainties inherent in management estimates of future operating results and cash flows;
 - our ability to maintain compliance with our debt arrangements;
 - changes in competitive factors, including the development or expansion of LNG, pipeline and other projects that are competitive with ours;
 - development risks, operational hazards and regulatory approvals;
-

- our ability to enter into and consummate planned financing and other transactions;
- risks related to pandemics or disease outbreaks;
- risks of potential impairment charges and reductions in our reserves; and
- risks and uncertainties associated with litigation matters.

The forward-looking statements in this report speak as of the date hereof. Although we may from time to time voluntarily update our prior forward-looking statements, we disclaim any commitment to do so except as required by securities laws.

DEFINITIONS

To the extent applicable, and as used in this quarterly report, the terms listed below have the following meanings:

Bcf	Billion cubic feet of natural gas
DD&A	Depreciation, depletion and amortization
DFC	Deferred financing costs
EPC	Engineering, procurement and construction
FID	Final investment decision as it pertains to the Driftwood Project
FERC	U.S. Federal Energy Regulatory Commission
GAAP	Generally accepted accounting principles in the U.S.
LNG	Liquefied natural gas
LSTK	Lump sum turnkey
Mtpa	Million tonnes per annum
NYSE American	NYSE American LLC
Phase 1	Plants one and two of the Driftwood terminal
Train	An industrial facility comprised of a series of refrigerant compressor loops used to cool natural gas into LNG
U.S.	United States

PART I. FINANCIAL INFORMATION
ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
TELLURIAN INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts, unaudited)

ASSETS	June 30, 2023	December 31, 2022
Current assets:		
Cash and cash equivalents	\$ 106,706	\$ 474,205
Accounts receivable	15,731	76,731
Prepaid expenses and other current assets	17,700	23,355
Total current assets	140,137	574,291
Property, plant and equipment, net		
	1,048,880	789,076
Other non-current assets		
	71,233	63,316
Total assets	\$ 1,260,250	\$ 1,426,683
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 49,955	\$ 4,805
Accrued and other liabilities	83,808	129,180
Borrowings	—	163,556
Total current liabilities	133,763	297,541
Long-term liabilities:		
Borrowings	383,571	382,208
Finance lease liabilities	121,895	49,963
Other non-current liabilities	21,647	24,428
Total long-term liabilities	527,113	456,599
Commitments and Contingencies (Note 9)		
Stockholders' equity:		
Preferred stock, \$0.01 par value, 100,000,000 authorized: 6,123,782 and 6,123,782 shares outstanding, respectively	61	61
Common stock, \$0.01 par value, 1,600,000,000 authorized: 573,268,037 and 564,567,568 shares outstanding, respectively	5,560	5,456
Additional paid-in capital	1,661,735	1,647,896
Accumulated deficit	(1,067,982)	(980,870)
Total stockholders' equity	599,374	672,543
Total liabilities and stockholders' equity	\$ 1,260,250	\$ 1,426,683

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TELLURIAN INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts, unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Revenues:				
Natural gas sales	\$ 31,987	\$ 61,350	\$ 82,922	\$ 87,339
LNG sales	—	—	—	120,951
Total revenue	<u>31,987</u>	<u>61,350</u>	<u>82,922</u>	<u>208,290</u>
Operating costs and expenses:				
Operating expenses	20,848	5,943	38,293	10,108
LNG cost of sales	—	—	—	131,663
Development expenses	11,530	17,687	23,587	35,352
Depreciation, depletion and amortization	25,210	5,854	47,397	9,875
General and administrative expenses	31,290	23,514	63,540	55,839
Total operating costs and expenses	<u>88,878</u>	<u>52,998</u>	<u>172,817</u>	<u>242,837</u>
(Loss) income from operations	<u>(56,891)</u>	<u>8,352</u>	<u>(89,895)</u>	<u>(34,547)</u>
Interest expense, net	(4,182)	(4,566)	(8,192)	(6,846)
Loss on extinguishment of debt, net	—	—	(2,822)	—
Other income (expense), net	1,454	(3,821)	13,797	(25,249)
Loss before income taxes	(59,619)	(35)	(87,112)	(66,642)
Income tax	—	—	—	—
Net loss	<u>\$ (59,619)</u>	<u>\$ (35)</u>	<u>\$ (87,112)</u>	<u>\$ (66,642)</u>
Net loss per common share⁽¹⁾:				
Basic and diluted	<u>\$ (0.11)</u>	<u>\$ 0.00</u>	<u>\$ (0.16)</u>	<u>\$ (0.13)</u>
Weighted-average shares outstanding:				
Basic and diluted	<u>540,365</u>	<u>534,521</u>	<u>539,039</u>	<u>515,338</u>

(1) The numerator for both basic and diluted loss per share is net loss. The denominator for both basic and diluted loss per share is the weighted-average shares outstanding during the period.

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TELLURIAN INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands, unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Total shareholders' equity, beginning balance	\$ 645,543	\$ 524,655	\$ 672,543	\$ 418,301
Preferred stock	61	61	61	61
Common stock:				
Beginning balance	5,458	5,229	5,456	4,774
Common stock issuances	101	223	101	677
Share-based compensation, net	1	2	3	2
Share-based payment	—	—	—	1
Ending balance	5,560	5,454	5,560	5,454
Additional paid-in capital:				
Beginning balance	1,648,387	1,517,031	1,647,896	1,344,526
Common stock issuances	12,663	127,859	12,663	299,063
Share-based compensation, net	685	811	1,176	1,716
Share-based payments	—	219	—	616
Ending balance	1,661,735	1,645,920	1,661,735	1,645,920
Accumulated deficit:				
Beginning balance	(1,008,363)	(997,666)	(980,870)	(931,059)
Net loss	(59,619)	(35)	(87,112)	(66,642)
Ending balance	(1,067,982)	(997,701)	(1,067,982)	(997,701)
Total shareholders' equity, ending balance	\$ 599,374	\$ 653,734	\$ 599,374	\$ 653,734

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

TELLURIAN INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands, unaudited)

	Six Months Ended June 30,	
	2023	2022
Cash flows from operating activities:		
Net loss	\$ (87,112)	\$ (66,642)
Adjustments to reconcile Net loss to Net cash provided by (used in) operating activities:		
Depreciation, depletion and amortization	47,397	9,875
Amortization of debt issuance costs, discounts and fees	1,652	580
Share-based compensation	1,179	1,718
Share-based payments	—	616
Net unrealized loss on financial instruments not designated as hedges	10,346	13,472
Loss on extinguishment of debt, net	2,822	—
Other	2,142	555
Net changes in working capital (Note 15)	37,654	(43,672)
Net cash provided by (used in) operating activities	<u>16,080</u>	<u>(83,498)</u>
Cash flows from investing activities:		
Development of natural gas properties	(95,231)	(66,500)
Driftwood Project construction costs	(112,565)	(68,725)
Land purchases and land improvements	—	(17,425)
Investment in unconsolidated entity	—	(6,089)
Note receivable	(18,000)	—
Capitalized internal use software and other assets	(3,530)	—
Net cash used in investing activities	<u>(229,326)</u>	<u>(158,739)</u>
Cash flows from financing activities:		
Proceeds from common stock issuances	13,163	309,021
Equity issuance costs	(399)	(9,281)
Borrowing proceeds	—	501,178
Borrowing issuance costs	—	(11,488)
Borrowing principal repayments	(166,666)	—
Other	(344)	(3,063)
Net cash (used in) provided by financing activities	<u>(154,246)</u>	<u>786,367</u>
Net (decrease) increase in cash, cash equivalents and restricted cash	(367,492)	544,130
Cash, cash equivalents and restricted cash, beginning of period	508,468	307,274
Cash, cash equivalents and restricted cash, end of period	<u>\$ 140,976</u>	<u>\$ 851,404</u>
Supplementary disclosure of cash flow information:		
Interest paid, net of capitalized interest	\$ 13,681	\$ 4,928

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

Tellurian Inc. and Subsidiaries
Notes to Condensed Consolidated Financial Statements (unaudited)

NOTE 1 — GENERAL

Tellurian Inc. (“Tellurian,” “we,” “us,” “our,” or the “Company”), a Delaware corporation, is a Houston-based company that is developing and plans to operate a portfolio of natural gas, LNG marketing, and infrastructure assets that includes an LNG terminal facility (the “Driftwood terminal”), related pipelines and upstream natural gas assets (collectively referred to as the “Business”). The Driftwood terminal and related pipelines are collectively referred to as the “Driftwood Project.”

The terms “we,” “our,” “us,” “Tellurian” and the “Company” as used in this report refer collectively to Tellurian Inc. and its subsidiaries unless the context suggests otherwise. These terms are used for convenience only and are not intended as a precise description of any separate legal entity associated with Tellurian Inc.

Basis of Presentation

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with GAAP for interim financial information and with Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements and should be read in conjunction with the Consolidated Financial Statements and accompanying notes included in our Annual Report on Form 10-K for the year ended December 31, 2022. The Condensed Consolidated Financial Statements, in the opinion of management, reflect all adjustments necessary for the fair presentation of the results for the periods presented. All adjustments are of a normal recurring nature unless otherwise disclosed.

Certain reclassifications have been made to conform prior period information to the current presentation. The reclassifications did not have a material effect on our consolidated financial position, results of operations or cash flows.

To conform with GAAP, we make estimates and assumptions that affect the amounts reported in our Condensed Consolidated Financial Statements and the accompanying notes. Although these estimates and assumptions are based on our best available knowledge at the time, actual results may differ.

Liquidity

Our Condensed Consolidated Financial Statements have been prepared in accordance with GAAP, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business as well as the Company’s ability to continue as a going concern. As of the date of the Condensed Consolidated Financial Statements, we have historically generated losses and negative cash flows from operations, and have an accumulated deficit. We have not yet established an ongoing source of revenues that is sufficient to cover our future operating costs and obligations as they become due during the twelve months following the issuance of the Condensed Consolidated Financial Statements.

We are planning to meet our liquidity needs from cash on hand and the combined proceeds generated by our Upstream operations and the sale of common stock under our at-the-market equity offering program. On August 8, 2023, we entered into a private placement securities purchase agreement (the “SPA”) with an institutional investor to refinance the Company’s existing convertible notes. See Note 17, *Subsequent Events*, for additional information. The SPA is expected to close in the near future, subject to the satisfaction of customary closing conditions. We have determined that it is probable that the closing of the SPA will occur and that such sources of liquidity will satisfy our obligations, fund working capital needs and allow us to remain compliant with our debt covenants for at least twelve months following the issuance of the financial statements.

We also continue to evaluate generating additional proceeds from various other potential financing transactions, such as issuances of equity, equity-linked and debt securities, or similar transactions to fund our obligations and working capital needs. We remain focused on the financing and construction of the Driftwood Project while managing our marketing & trading operations and upstream assets.

NOTE 2 — PREPAID EXPENSES AND OTHER CURRENT ASSETS

Prepaid expenses and other current assets consist of the following (in thousands):

	June 30, 2023	December 31, 2022
Prepaid expenses	\$ 1,957	\$ 2,174
Deposits	273	172
Restricted cash	9,375	9,375
Derivative asset, net current (Note 5)	—	10,463
Other current assets	6,095	1,171
Total prepaid expenses and other current assets	<u>\$ 17,700</u>	<u>\$ 23,355</u>

Restricted Cash

Restricted cash as of June 30, 2023 and December 31, 2022 consists of approximately \$9.4 million held in escrow under the terms of the purchase and sale agreement for the acquisition of certain natural gas assets in the Haynesville Shale.

NOTE 3 — PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment, net consist of the following (in thousands):

	June 30, 2023	December 31, 2022
Upstream natural gas assets:		
Proved properties	\$ 489,608	\$ 412,977
Wells in progress	66,071	55,374
Accumulated DD&A	(138,177)	(92,423)
Total upstream natural gas assets, net	417,502	375,928
Driftwood Project assets:		
Terminal construction in progress	414,625	292,734
Pipeline construction in progress	21,071	—
Land and land improvements	53,664	52,460
Finance lease assets, net of accumulated DD&A	56,121	56,708
Buildings and other assets, net of accumulated DD&A	325	340
Total Driftwood Project assets, net	545,806	402,242
Fixed assets and other:		
Finance lease assets, net of accumulated DD&A	71,939	—
Leasehold improvements and other assets	16,867	12,672
Accumulated DD&A	(3,234)	(1,766)
Total fixed assets and other, net	85,572	10,906
Total property, plant and equipment, net	\$ 1,048,880	\$ 789,076

Terminal Construction in Progress

During the six months ended June 30, 2023, we capitalized approximately \$121.9 million of directly identifiable project costs as Driftwood terminal construction in progress.

Pipeline Construction in Progress

On April 21, 2023, the Company received FERC approval for the construction of the Driftwood pipelines. During the second quarter of 2023, pipeline materials and rights of way of approximately \$14.6 million were transferred to construction in progress in accordance with our accounting policies. During the three months ended June 30, 2023, we also capitalized approximately \$6.4 million of directly identifiable project costs as Pipeline construction in progress.

NOTE 4 — OTHER NON-CURRENT ASSETS

Other non-current assets consist of the following (in thousands):

	June 30, 2023	December 31, 2022
Land lease and purchase options	\$ 8	\$ 300
Permitting costs	—	916
Right of use asset — operating leases	14,477	13,303
Restricted cash	24,895	24,888
Investment in unconsolidated entity	6,089	6,089
Note receivable	24,189	6,595
Pipeline materials and rights of way	—	9,136
Other	1,575	2,089
Total other non-current assets	\$ 71,233	\$ 63,316

Restricted Cash

Restricted cash as of June 30, 2023 and December 31, 2022 represents cash collateralization of a letter of credit associated with a finance lease.

Note Receivable

In February 2023, the Company issued an amended and restated promissory note due June 14, 2031 (the “Note Receivable”) to an unaffiliated entity engaged in the development of infrastructure projects in the energy industry. The outstanding principal balance of the Note Receivable as of June 30, 2023 was approximately \$24.2 million. The promissory note bears interest at a rate of 6.00%, which is capitalized into the outstanding principal balance annually.

Pipeline materials and rights of way

Pipeline materials and rights of way were transferred to construction in progress as of June 30, 2023. See Note 3 *Property, Plant and Equipment*.

NOTE 5 — FINANCIAL INSTRUMENTS

Natural Gas Financial Instruments

The primary purpose of our commodity risk management activities is to hedge our exposure to cash flow variability from commodity price risk due to fluctuations in commodity prices. The Company uses natural gas financial futures and option contracts to economically hedge the commodity price risks associated with a portion of our expected natural gas production. As of June 30, 2023, there were no open natural gas financial instrument positions.

LNG Financial Futures

During the year ended December 31, 2021, we entered into LNG financial futures contracts to reduce our exposure to commodity price fluctuations and to achieve more predictable cash flows relative to two LNG cargos that we were committed to purchase from and sell to unrelated third-party LNG merchants in the normal course of business in January and April 2022. As of June 30, 2023, there were no open LNG financial instrument positions.

Contingent Consideration

On August 18, 2022, the Company completed the acquisition of certain natural gas assets in the Haynesville Shale basin (the “Asset Acquisition”). The Asset Acquisition included cash consideration payable to the sellers of \$7.5 million (the “Contingent Consideration”) if the average NYMEX Henry Hub gas price for the contract delivery months beginning with August 2022 through March 2023 exceeded a specific threshold (the “Threshold”) per MMBtu. The Threshold was not met and, therefore, the Company is not obligated to pay the Contingent Consideration.

The following table summarizes the effect of the Company’s financial instruments on the Condensed Consolidated Statements of Operations (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Natural gas financial instruments:				
Realized gain (loss)	\$ 11,444	\$ (10,536)	\$ 23,310	\$ (11,251)
Unrealized (loss) gain	(10,891)	6,790	(10,463)	(8,311)
LNG financial futures:				
Realized gain	—	—	—	3,532
Unrealized loss	—	—	—	5,161
Contingent Consideration:				
Realized gain	—	—	118	—

The following table presents the classification of the Company's financial derivative assets and liabilities that are required to be measured at fair value on a recurring basis on the Company's Condensed Consolidated Balance Sheets (in thousands):

	June 30, 2023	December 31, 2022
Current assets:		
Natural gas financial instruments	\$ —	\$ 10,463
LNG financial futures	—	—
Current liabilities:		
Contingent Consideration	—	118

The Company's natural gas financial instruments are valued using quoted prices in active exchange markets as of the balance sheet date and are classified as Level 1 within the fair value hierarchy.

NOTE 6 — RELATED PARTY TRANSACTIONS

Related Party Contractor Service Fees and Expenses

The Company entered into a one-year independent contractor agreement, effective January 1, 2022, with Mr. Martin Houston, the Vice Chairman of the Company's Board of Directors. Pursuant to the terms and conditions of this agreement, the Company paid Mr. Houston a monthly fee of \$50.0 thousand plus approved expenses. In December 2022, the Company amended the independent contractor agreement to expire on the earlier of (i) termination of Mr. Houston and (ii) December 31, 2023, and to increase the monthly fee to \$55.0 thousand plus approved expenses. For the three and six months ended June 30, 2023, the Company paid Mr. Houston \$220.0 thousand and \$330.0 thousand, respectively, for contractor service fees and expenses. For each of the three and six months ended June 30, 2022, the Company paid Mr. Houston \$325.0 thousand for contractor service fees and expenses. As of June 30, 2023 and 2022, there were no amounts owed to Mr. Houston.

NOTE 7 — ACCRUED AND OTHER LIABILITIES

Accrued and other liabilities consist of the following (in thousands):

	June 30, 2023	December 31, 2022
Upstream accrued liabilities	\$ 39,696	\$ 71,977
Payroll and compensation	20,367	37,329
Accrued taxes	909	730
Driftwood Project development activities	6,162	4,423
Lease liabilities	4,310	2,875
Accrued interest	4,126	5,793
Other	8,238	6,053
Total accrued and other liabilities	\$ 83,808	\$ 129,180

NOTE 8 — BORROWINGS

The Company's borrowings consist of the following (in thousands):

	June 30, 2023		
	Principal repayment obligation	Unamortized DFC	Carrying value
Senior Secured Convertible Notes, current	\$ —	\$ —	\$ —
Senior Secured Convertible Notes, non-current	333,334	(5,024)	328,310
Senior Notes due 2028	57,678	(2,417)	55,261
Total borrowings	\$ 391,012	\$ (7,441)	\$ 383,571

	December 31, 2022		
	Principal repayment obligation	Unamortized DFC	Carrying value
Senior Secured Convertible Notes, current	\$ 166,666	\$ (3,110)	\$ 163,556
Senior Secured Convertible Notes, non-current	333,334	(6,219)	327,115
Senior Notes due 2028	57,678	(2,585)	55,093
Total borrowings	<u>\$ 557,678</u>	<u>\$ (11,914)</u>	<u>\$ 545,764</u>

Amortization of the Company's DFC is a component of Interest expense, net in the Company's Condensed Consolidated Statements of Operations. The Company amortized approximately \$0.7 million and \$1.7 million during the three and six months ended June 30, 2023, respectively. For each of the three and six months ended June 30, 2022, the Company amortized approximately \$0.6 million.

Senior Secured Convertible Notes due 2025

On June 3, 2022, we issued and sold \$500.0 million aggregate principal amount of 6.00% Senior Secured Convertible Notes due May 1, 2025 (the "Convertible Notes" or the "Notes"). Net proceeds from the Convertible Notes were approximately \$488.7 million after deducting fees and expenses. The Convertible Notes have quarterly interest payments due on February 1, May 1, August 1, and November 1 of each year and on the maturity date. Debt issuance costs of approximately \$11.5 million were capitalized and are being amortized over the full term of the Notes using the effective interest rate method.

The holders of the Convertible Notes have the right to convert the Notes into shares of our common stock at an initial conversion rate of 174.703 shares per \$1,000 principal amount of Notes (equivalent to a conversion price of approximately \$5.724 per share of common stock) (the "Conversion Price"), subject to adjustment in certain circumstances. Holders of the Convertible Notes may force the Company to redeem the Notes for cash upon (i) a fundamental change or (ii) an event of default.

The Company will force the holders of the Convertible Notes to convert all of the Notes if the trading price of our common stock closes above 200% of the Conversion Price for 20 consecutive trading days and certain other conditions are satisfied. The Company may provide written notice to each holder of the Notes calling all of such holder's Notes for a cash purchase price equal to 120% of the principal amount being redeemed, plus accrued and unpaid interest (the "Optional Redemption"), and each holder will have the right to accept or reject such Optional Redemption.

On each of May 1, 2023 and May 1, 2024, the holders of the Convertible Notes may redeem up to \$166.7 million of the initial principal amount of the Notes at par, plus accrued and unpaid interest (the "Redemption Amount"). On March 27, 2023, the holders of the Convertible Notes delivered to the Company notice to redeem \$166.7 million of the initial principal amount of the Notes at par, plus accrued interest (the "Redemption Amount"). On March 28, 2023, the Company irrevocably deposited the Redemption Amount of approximately \$169.1 million in order to satisfy the redemption and retirement of \$166.7 million principal amount of the Convertible Notes, plus accrued interest. As a result of the Company's payment of the Redemption Amount prior to the Convertible Notes' contractual maturity, the Company wrote off approximately \$2.8 million of prorated unamortized debt issuance costs, which was recognized within Loss on extinguishment of debt, net, in our Condensed Consolidated Statements of Operations.

Our borrowing obligations under the Convertible Notes are collateralized by a first priority lien on the Company's equity interests in Tellurian Production Holdings LLC ("Tellurian Production Holdings"), a wholly owned subsidiary of Tellurian Inc. Tellurian Production Holdings owns all of the Company's upstream natural gas assets described in Note 3, *Property, Plant and Equipment*. Upon the Company's compliance with its obligations in respect of an Optional Redemption (regardless of whether holders accept or reject the redemption), the lien on the equity interests in Tellurian Production Holdings will be automatically released. The Notes contain a minimum cash covenant of \$100.0 million and non-financial covenants. The Company and the holders of the Convertible Notes entered into supplemental indentures in June, July and August 2023, which decreased the minimum cash covenant from \$100.0 million to \$60.0 million during the period from June 16, 2023 to August 18, 2023. As of June 30, 2023, we remained in compliance with all covenants under the Notes. See Note 17, *Subsequent Events*, for further information.

As of June 30, 2023, the estimated fair value of the Convertible Notes was approximately \$289.4 million. The Level 3 fair value was estimated based on inputs that are observable in the market or that could be derived from, or corroborated with, observable market data, including our stock price and inputs that are not observable in the market.

Senior Notes due 2028

On November 10, 2021, we sold in a registered public offering \$50.0 million aggregate principal amount of 8.25% Senior Notes due November 30, 2028 (the “Senior Notes”). Net proceeds from the Senior Notes were approximately \$47.5 million after deducting fees. The underwriter was granted an option to purchase up to an additional \$7.5 million of the Senior Notes within 30 days. On December 7, 2021, the underwriter exercised the option and purchased an additional \$6.5 million of the Senior Notes resulting in net proceeds of approximately \$6.2 million after deducting fees. The Senior Notes have quarterly interest payments due on January 31, April 30, July 31, and October 31 of each year and on the maturity date. As of June 30, 2023, the Company was in compliance with all covenants under the indenture governing the Senior Notes. The Senior Notes are listed and trade on the NYSE American under the symbol “TELZ,” and are classified as Level 1 within the fair value hierarchy. As of June 30, 2023, the closing market price was \$17.39 per Senior Note.

At-the-Market Debt Offering Program

On December 17, 2021, we entered into an at-the-market debt offering program under which the Company may offer and sell, from time to time on the NYSE American, up to an aggregate principal amount of \$200.0 million of additional Senior Notes. During the six months ended June 30, 2022, we sold approximately \$1.2 million aggregate principal amount of additional Senior Notes for total proceeds of approximately \$1.1 million after fees and commissions under our at-the-market debt offering program. On December 30, 2022, we terminated the at-the-market debt offering program.

NOTE 9 — COMMITMENTS AND CONTINGENCIES

Trade Finance Credit Line

On July 19, 2021, we entered into an uncommitted trade finance credit line for up to \$30.0 million that is intended to finance the purchase of LNG cargos for ultimate resale in the normal course of business. On December 7, 2021, the uncommitted trade finance credit line was amended and increased to \$150.0 million. As of June 30, 2023, no amounts were drawn under this credit line.

Minimum Volume Commitments

The Company is expected to be subject to gas gathering commitments in the near-term with unrelated companies that are constructing gathering systems in the Haynesville Shale. Upon the in-service date of these gathering systems, the Company will have dedicated gathering capacity from a portion of the Upstream segment’s future natural gas production. The gas gathering agreements will require us to make deficiency payments to the extent the Company does not meet the minimum volume commitments per the terms of each contract. As of June 30, 2023, we were not subject to any material volume delivery commitments.

NOTE 10 — STOCKHOLDERS’ EQUITY

At-the-Market Equity Offering Programs

We maintain at-the-market equity offering programs pursuant to which we sell shares of our common stock from time to time on the NYSE American. During the six months ended June 30, 2022, we issued 67.7 million shares of our common stock under our at-the-market equity offering programs for net proceeds of approximately \$299.7 million. On December 30, 2022, we terminated the Company’s then-existing at-the-market equity offering programs.

On December 30, 2022, we entered into a new at-the-market equity offering program pursuant to which the Company may sell shares of its common stock from time to time on the NYSE American for aggregate sales proceeds of up to \$500.0 million. During each of the three and six months ended June 30, 2023, we issued 10.1 million shares of our common stock under our at-the-market equity offering program for net proceeds of approximately \$12.8 million. See Note 17, *Subsequent Events*, for further information.

Preferred Stock

In March 2018, we entered into a preferred stock purchase agreement with BDC Oil and Gas Holdings, LLC (“Bechtel Holdings”), a Delaware limited liability company and an affiliate of Bechtel Energy Inc., pursuant to which we sold to Bechtel Holdings approximately 6.1 million shares of our Series C convertible preferred stock (the “Preferred Stock”).

The holders of the Preferred Stock do not have dividend rights but do have a liquidation preference over holders of our common stock. The holders of the Preferred Stock may convert all or any portion of their shares into shares of our common stock on a one-for-one basis. At any time after “Substantial Completion” of “Project 1,” each as defined in and pursuant to the LSTK EPC Agreement for the Driftwood LNG Phase 1 Liquefaction Facility, dated as of November 10, 2017, or at any time after March 21, 2028, we have the right to cause all of the Preferred Stock to be converted into shares of our common stock on a one-for-one basis. The Preferred Stock has been excluded from the computation of diluted loss per share because including it in the computation would have been antidilutive for the periods presented.

NOTE 11 — SHARE-BASED COMPENSATION

We have granted restricted stock and restricted stock units (collectively, “Restricted Stock”), as well as unrestricted stock and stock options, to employees, directors and outside consultants under the Tellurian Inc. 2016 Omnibus Incentive Compensation Plan, as amended (the “2016 Plan”), and the Amended and Restated Tellurian Investments Inc. 2016 Omnibus Incentive Plan (the “Legacy Plan”). The maximum number of shares of Tellurian common stock authorized for issuance under the 2016 Plan is 40 million shares of common stock, and no further awards can be made under the Legacy Plan.

Upon the vesting of restricted stock, shares of common stock will be released to the grantee. Upon the vesting of restricted stock units, the units will be converted into either cash, stock, or a combination thereof. As of June 30, 2023, there was no Restricted Stock that would be required to be settled in cash.

As of June 30, 2023, we had approximately 26.5 million shares of primarily performance-based Restricted Stock outstanding, of which approximately 15.0 million shares will vest entirely at FID, as defined in the award agreements, and approximately 11.0 million shares will vest in one-third increments at FID and the first and second anniversaries of FID. The remaining shares of primarily performance-based Restricted Stock, totaling approximately 0.5 million shares, will vest based on other criteria. As of June 30, 2023, no expense had been recognized in connection with performance-based Restricted Stock.

As of June 30, 2023, unrecognized compensation expenses, based on the grant date fair value, for all share-based awards totaled approximately \$174.5 million. Further, approximately 26.5 million shares of primarily performance-based Restricted Stock, as well as approximately 10.9 million stock options outstanding, have been excluded from the computation of diluted loss per share because including them in the computation would have been antidilutive for the periods presented.

The Company recognized share-based compensation expenses as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Share-based compensation expense	\$ 686	\$ 813	\$ 1,179	\$ 1,718

NOTE 12 — INCENTIVE COMPENSATION PROGRAM

On November 18, 2021, the Company’s Board of Directors approved the adoption of the Tellurian Incentive Compensation Program (the “Incentive Compensation Program” or “ICP”). The ICP allows the Company to award short-term and long-term performance and service-based incentive compensation to full-time employees. ICP awards may be earned with respect to each calendar year and are determined based on guidelines established by the Compensation Committee of the Company’s Board of Directors.

Long-term incentive awards

Long-term incentive (“LTI”) awards under the ICP were granted in January 2022 in the form of “tracking units,” at the discretion of the Compensation Committee of the Company’s Board of Directors (the “2021 LTI Awards”). Each such tracking unit has a value equal to one share of Tellurian common stock and entitles the grantee to receive, upon vesting, a cash payment equal to the closing price of our common stock on the trading day prior to the vesting date. These tracking units will vest in three equal tranches at the grant date and the first and second anniversaries of the grant date. Non-vested 2021 LTI Awards as of June 30, 2023 and awards granted during the period were as follows:

	Number of Tracking Units (in thousands)	Price per Tracking Unit
Balance at January 1, 2023	12,719	\$ 1.68
Granted	—	—
Vested	(6,359)	2.13
Forfeited	(327)	1.49
Unvested balance at June 30, 2023	6,033	\$ 1.41

LTI awards under the ICP were granted in February 2023 in the form of “tracking units,” at the discretion of the Compensation Committee of the Company’s Board of Directors (the “2022 LTI Awards”). Each such tracking unit has a value equal to one share of Tellurian common stock and entitles the grantee to receive, upon vesting, a cash payment equal to the closing price of our common stock on the trading day prior to the vesting date. These tracking units will vest in three equal tranches at the grant date and the first and second anniversaries of the grant date.

Non-vested 2022 LTI Awards as of June 30, 2023 and awards granted during the period were as follows:

	Number of Tracking Units (in thousands)	Price per Tracking Unit
Balance at January 1, 2023	—	—
Granted	14,789	\$ 2.10
Vested	(4,930)	1.63
Forfeited	(444)	1.47
Unvested balance at June 30, 2023	<u>9,415</u>	<u>\$ 1.41</u>

We recognize compensation expense for awards with graded vesting schedules over the requisite service periods for each separately vesting portion of the award as if each award was in substance multiple awards. Compensation expense for the first tranche of the 2021 LTI Awards and the 2022 LTI Awards that vested at the grant date was recognized over the performance period when it was probable that the performance condition was achieved. Compensation expense for the second and third tranches of the 2021 LTI Awards and the 2022 LTI Awards is recognized on a straight-line basis over the requisite service period. Compensation expense for unvested tracking units is subsequently adjusted each reporting period to reflect the estimated payout levels based on changes in the Company's stock price and actual forfeitures.

The Company recognized compensation expense related to the second and third tranches of the 2021 LTI Awards and the 2022 LTI Awards as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
2022 LTI Awards	\$ 2,801	\$ —	\$ 4,979	\$ —
2021 LTI Awards	1,739	1,563	1,038	14,280

NOTE 13 — INCOME TAXES

Due to our cumulative loss position, historical net operating losses ("NOLs"), and other available evidence related to our ability to generate taxable income, we have recorded a full valuation allowance against our net deferred tax assets as of June 30, 2023 and December 31, 2022. Accordingly, we have not recorded a provision for federal, state or foreign income taxes during the three and six months ended June 30, 2023.

We experienced ownership changes as defined by Internal Revenue Code ("IRC") Section 382 in 2017, and an analysis of the annual limitation on the utilization of our NOLs was performed at that time. It was determined that IRC Section 382 will not limit the use of our NOLs over the carryover period. We will continue to monitor trading activity in our shares that may cause an additional ownership change, which may ultimately affect our ability to fully utilize our existing NOL carryforwards.

NOTE 14 — LEASES

Our Driftwood Project land leases are classified as finance leases and include one or more options to extend the lease term for up to 40 years, as well as to terminate the lease within five years, at our sole discretion. We are reasonably certain that those options will be exercised and that our termination rights will not be exercised, and we have, therefore, included those assumptions within our right of use assets and corresponding lease liabilities. Our other land leases are classified as finance leases and include one or more options to extend the lease term for up to 69 years or to terminate the lease within seven years, at our sole discretion. We are reasonably certain that those options and termination rights will not be exercised, and we have, therefore, excluded those assumptions within our right of use assets and corresponding lease liabilities.

Our office space leases are classified as operating leases and include one or more options to extend the lease term up to 10 years, at our sole discretion. As we are not reasonably certain that those options will be exercised, none are recognized as part of our right of use assets and lease liabilities. As none of our leases provide an implicit rate, we have determined our own discount rate.

The following table shows the classification and location of our right-of-use assets and lease liabilities on our Condensed Consolidated Balance Sheets (in thousands):

Leases	Condensed Consolidated Balance Sheets		June 30, 2023		December 31, 2022	
	Classification					
Right of use asset						
Operating	Other non-current assets		\$ 14,477	\$		13,303
Finance	Property, plant and equipment, net		128,060			56,708
Total leased assets			\$ 142,537	\$		70,011
Liabilities						
Current						
Operating	Accrued and other liabilities		\$ 3,468	\$		2,734
Finance	Accrued and other liabilities		842			140
Non-current						
Operating	Other non-current liabilities		12,698			12,148
Finance	Finance lease liabilities		121,895			49,963
Total leased liabilities			\$ 138,903	\$		64,985

Lease costs recognized in our Condensed Consolidated Statements of Operations is summarized as follows (in thousands):

Lease costs	Six Months Ended June 30,	
	2023	2022
Operating lease cost	\$ 1,804	\$ 1,452
Finance lease cost		
Amortization of lease assets	1,627	587
Interest on lease liabilities	4,370	1,990
Finance lease cost	5,997	2,577
Total lease cost	\$ 7,801	\$ 4,029

Other information about lease amounts recognized in our Condensed Consolidated Financial Statements is as follows:

	June 30, 2023
Lease term and discount rate	
Weighted average remaining lease term (years)	
Operating lease	4.0
Finance lease	36.6
Weighted average discount rate	
Operating lease	6.4 %
Finance lease	8.6 %

The following table includes other quantitative information for our operating and finance leases (in thousands):

	Six Months Ended June 30,	
	2023	2022
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$ 2,009	\$ 1,494
Operating cash flows from finance leases	4,294	2,668
Financing cash flows from finance leases	170	—

The table below presents a maturity analysis of our lease liability on an undiscounted basis and reconciles those amounts to the present value of the lease liability as of June 30, 2023 (in thousands):

	Operating	Finance
2023	\$ 2,041	\$ 5,245
2024	4,665	10,491
2025	4,720	10,491
2026	4,754	10,491
2027	1,953	10,491
After 2027	275	332,826
Total lease payments	\$ 18,408	\$ 380,035
Less: discount	2,242	257,298
Present value of lease liability	\$ 16,166	\$ 122,737

NOTE 15 — ADDITIONAL CASH FLOW INFORMATION

The following table provides information regarding the net changes in working capital (in thousands):

	Six Months Ended June 30,	
	2023	2022
Accounts receivable	\$ 61,000	\$ (22,705)
Prepaid expenses and other current assets ¹	(6,370)	(11,454)
Accounts payable	28,482	2,271
Accrued liabilities ¹	(45,458)	(12,585)
Other, net	—	801
Net changes in working capital	\$ 37,654	\$ (43,672)

¹ Excludes changes in the Company's derivative assets and liabilities.

The following table provides supplemental disclosure of cash flow information (in thousands):

	Six Months Ended June 30,	
	2023	2022
Non-cash accruals of property, plant and equipment and other non-current assets	\$ 9,406	\$ (3,551)

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the Condensed Consolidated Balance Sheets that sum to the total of such amounts shown in the Condensed Consolidated Statements of Cash Flows (in thousands):

	Six Months Ended June 30,	
	2023	2022
Cash and cash equivalents	\$ 106,706	\$ 823,522
Current restricted cash	9,375	3,000
Non-current restricted cash	24,895	24,882
Total cash, cash equivalents and restricted cash per the statements of cash flows	\$ 140,976	\$ 851,404

NOTE 16 — DISCLOSURES ABOUT SEGMENTS AND RELATED INFORMATION

The Upstream segment is organized and operates to produce, gather and deliver natural gas and to acquire and develop natural gas assets. The Midstream segment is organized to develop, construct and operate LNG terminals and pipelines. The Marketing & Trading segment is organized and operates to purchase and sell natural gas produced primarily by the Upstream segment, market the Driftwood terminal's LNG production capacity and trade LNG. These operating segments represent the Company's reportable segments. The remainder of our business is presented as "Corporate," and consists of corporate costs and intersegment eliminations. The Company's Chief Operating Decision Maker does not currently assess segment performance or allocate resources based on a measure of total assets. Accordingly, a total asset measure has not been provided for segment disclosure.

Three Months Ended June 30, 2023	Upstream	Midstream	Marketing & Trading	Corporate	Consolidated
Revenues from external customers ⁽¹⁾	\$ 5,780	\$ —	\$ 26,207	\$ —	\$ 31,987
Intersegment revenues (purchases) ⁽²⁾⁽³⁾	26,207	(1,765)	(22,782)	(1,660)	—
Segment operating loss ⁽⁴⁾	(28,698)	(16,281)	(2,938)	(8,974)	(56,891)
Interest income (expense), net	351	(252)	3	(4,284)	(4,182)
Other income (expense), net	1,075	—	487	(108)	1,454
Consolidated loss before tax					\$ (59,619)

Three Months Ended June 30, 2022	Upstream	Midstream	Marketing & Trading	Corporate	Consolidated
Revenues from external customers ⁽¹⁾	\$ —	\$ —	\$ 61,350	\$ —	\$ 61,350
Intersegment revenues (purchases) ⁽²⁾⁽³⁾	61,352	(230)	(59,404)	(1,718)	—
Segment operating profit (loss) ⁽⁴⁾	38,505	(20,016)	(4,292)	(5,845)	8,352
Interest expense, net	—	(995)	—	(3,571)	(4,566)
Other income (expense), net	—	—	(3,746)	(75)	(3,821)
Consolidated loss before tax					\$ (35)

Six Months Ended June 30, 2023	Upstream	Midstream	Marketing & Trading	Corporate	Consolidated
Revenues from external customers ⁽¹⁾	\$ 9,634	\$ —	\$ 73,288	\$ —	\$ 82,922
Intersegment revenues (purchases) ⁽²⁾⁽³⁾	73,288	(3,120)	(65,980)	(4,188)	—
Segment operating loss ⁽⁴⁾	(31,685)	(33,996)	(5,674)	(18,540)	(89,895)
Interest income (expense), net	577	(503)	2	(8,268)	(8,192)
Loss on extinguishment of debt, net	—	—	—	(2,822)	(2,822)
Other income (expense), net	1,193	—	12,816	(212)	13,797
Consolidated loss before tax					\$ (87,112)

Six Months Ended June 30, 2022	Upstream	Midstream	Marketing & Trading	Corporate	Consolidated
Revenues from external customers ⁽¹⁾	\$ —	\$ —	\$ 208,290	\$ —	\$ 208,290
Intersegment revenues (purchases) ⁽²⁾⁽³⁾	87,341	(230)	(77,115)	(9,996)	—
Segment operating profit (loss) ⁽⁴⁾	43,101	(37,800)	(16,583)	(23,265)	(34,547)
Interest expense, net	—	(1,990)	(454)	(4,402)	(6,846)
Other (expense) income, net	—	—	(25,758)	509	(25,249)
Consolidated loss before tax					\$ (66,642)

⁽¹⁾ The Marketing & Trading segment markets to third party-purchasers most of the Company's natural gas production from the Upstream segment.

⁽²⁾ The Marketing & Trading segment purchases most of the Company's natural gas production from the Upstream segment. Intersegment revenues are eliminated at consolidation.

⁽³⁾ Intersegment revenues related to the Marketing & Trading segment are a result of cost allocations to the Corporate component using a cost plus transfer pricing methodology. Intersegment revenues related to the Corporate component are associated with intercompany interest charged to the Midstream segment. Intersegment revenues are eliminated at consolidation.

⁽⁴⁾ Operating profit (loss) is defined as operating revenues less operating costs and allocated corporate costs.

Capital expenditures	Six Months Ended June 30,	
	2023	2022
Upstream	\$ 95,645	\$ 66,500
Midstream	112,565	86,150
Marketing & Trading	490	—
Total capital expenditures for reportable segments	208,700	152,650
Corporate capital expenditures	2,626	—
Consolidated capital expenditures	\$ 211,326	\$ 152,650

NOTE 17 — SUBSEQUENT EVENTS

Debt Refinancing

On August 8, 2023, we entered into a private placement securities purchase agreement (the “SPA”) with an institutional investor pursuant to which we agreed to issue and sell \$250.0 million aggregate principal amount of 10% Senior Secured Notes due October 1, 2025 (the “Senior Notes”) and approximately \$83.3 million aggregate principal amount of 6% Secured Convertible Notes (the “Secured Convertible Notes”) due October 1, 2025 (collectively the “Replacement Notes”). Net proceeds from the Replacement Notes of approximately \$299.4 million will be used to satisfy the outstanding principal repayment obligation under the Convertible Notes.

The Replacement Notes will be collateralized by the Company’s equity interests in Tellurian Production Holdings and mortgages of the material real property natural gas assets of Tellurian Production Holdings and its subsidiaries. The Replacement Notes indentures will contain financial and non-financial covenants, including a minimum cash covenant of \$50.0 million. The Replacement Notes will have quarterly interest cash payments, plus payments of approximately 3.0 million shares of common stock per quarter (or a total of approximately 25.7 million shares). On or after October 1, 2024, the holders of the Replacement Notes may redeem up to the entire principal amount of the Replacement Notes at par, plus accrued and unpaid interest, if the Company’s liquidity fails to meet or exceed a specified threshold.

At-the-Market Program

Subsequent to June 30, 2023, and through the date of this filing, we issued approximately 8.5 million shares of our common stock under our at-the-market equity offering program for net proceeds of approximately \$12.4 million. As of the date of this filing, we have availability to raise aggregate gross sales proceeds of approximately \$474.0 million under this at-the-market equity offering program.

Tellurian Inc. and Subsidiaries
Management's Discussion and Analysis of Financial Condition and Results of Operations

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Introduction

The following discussion and analysis presents management's view of our business, financial condition and overall performance and should be read in conjunction with our Condensed Consolidated Financial Statements and the accompanying notes. This information is intended to provide investors with an understanding of our past development activities, current financial condition and outlook for the future organized as follows:

- Our Business
- Overview of Significant Events
- Liquidity and Capital Resources
- Capital Development Activities
- Results of Operations
- Recent Accounting Standards

Our Business

Tellurian Inc. ("Tellurian," "we," "us," "our," or the "Company"), a Delaware corporation, is a Houston-based company that is developing and plans to operate a portfolio of natural gas, LNG marketing, and infrastructure assets that includes an LNG terminal facility (the "Driftwood terminal"), related pipelines and upstream natural gas assets (collectively referred to as the "Business"). The Driftwood terminal and related pipelines are collectively referred to as the "Driftwood Project." As of June 30, 2023, our upstream natural gas assets consisted of 31,117 net acres and interests in 157 producing wells located in the Haynesville Shale trend of northern Louisiana. Our Business may be developed in phases.

As part of our execution strategy, which includes increasing our asset base, we will consider various commercial arrangements with third parties across the natural gas value chain. We are also pursuing activities such as direct sales of LNG to global counterparties, trading of LNG, the acquisition of additional upstream acreage and drilling of new wells on our existing upstream acreage. We remain focused on the financing and construction of the Driftwood Project while managing our marketing & trading operations and upstream assets.

We manage and report our operations in three reportable segments. The Upstream segment is organized and operates to produce, gather, and deliver natural gas and to acquire and develop natural gas assets. The Midstream segment is organized to develop, construct and operate LNG terminals and pipelines. The Marketing & Trading segment is organized and operates to purchase and sell natural gas produced primarily by the Upstream segment, market the Driftwood terminal's LNG production capacity and trade LNG.

We continue to evaluate the scope and other aspects of our Business in light of the evolving economic environment, dynamics of the global political landscape, needs of potential counterparties and other factors. How we execute our Business will be based on a variety of factors, including the results of our continuing analysis, changing business conditions and market feedback.

Overview of Significant Events

Binding Commitment Letter

On April 4, 2023, the Company entered into a binding letter of intent (the "LOI") regarding the sale and leaseback of approximately 800 acres of land (the "Property") to be used for the proposed Driftwood Project. The transaction will consist of the sale of our interests in the Property for \$1.0 billion pursuant to a purchase and sale agreement (the "Purchase Agreement") and a 40-year lease of the Property to us. On July 18, 2023, the Company entered into a commitment letter regarding the sale and leaseback of the Property that effectively replaced the LOI. The closing of the sale-leaseback transaction will occur upon the satisfaction of the closing conditions in the Purchase Agreement, including the Company securing equity and debt commitments with respect to the development of the Driftwood Project.

Debt Refinancing

On August 8, 2023, we entered into a private placement securities purchase agreement (the "SPA") with an institutional investor pursuant to which we agreed to issue and sell \$250.0 million aggregate principal amount of 10% Senior Secured Notes due October 1, 2025 (the "Senior Notes") and approximately \$83.3 million aggregate principal amount of 6% Secured Convertible Notes (the "Secured Convertible Notes") due October 1, 2025 (collectively the "Replacement Notes"). Net proceeds from the Replacement Notes of approximately \$299.4 million will be used to satisfy the outstanding principal repayment obligation under the Convertible Notes.

Tellurian Inc. and Subsidiaries
Management's Discussion and Analysis of Financial Condition and Results of Operations

Liquidity and Capital Resources

Capital Resources

We consider all highly liquid investments with an original maturity of three months or less to be cash equivalents. We are currently funding our operations, development activities and general working capital needs through our cash on hand. Our current capital resources consist of approximately \$106.7 million of cash and cash equivalents as of June 30, 2023. We currently maintain an at-the-market equity offering program pursuant to which we may sell our common stock from time to time. As of the date of this filing, we have availability to raise aggregate gross sales proceeds of approximately \$474.0 million under this at-the-market equity offering program.

As of June 30, 2023, we had total indebtedness of approximately \$391.0 million. We also had contractual obligations associated with our finance and operating leases totaling \$398.4 million, of which \$14.9 million is scheduled to be paid within the next twelve months. The partial redemption of the Convertible Notes, continued expenses associated with the construction of the Driftwood Project and the development of natural gas properties and declines in natural gas prices have significantly reduced our cash on hand. In June, July and August 2023, we entered into supplemental indentures that temporarily reduced the amount of cash and cash equivalents we are required to hold pursuant to the indenture governing the Convertible Notes from \$100.0 million to \$60.0 million.

We are planning to meet our liquidity needs from cash on hand and the combined proceeds generated by our Upstream operations and the sale of common stock under our at-the-market equity offering program. On August 8, 2023, we entered into a private placement securities purchase agreement (the "SPA") with an institutional investor to refinance the Company's existing Convertible Notes. For further information regarding the refinancing of the Company's Convertible Notes, see Note 17, *Subsequent Events*, of our Notes to the Condensed Consolidated Financial Statements. The SPA is expected to close in the near future, subject to the satisfaction of customary closing conditions. We have determined that it is probable that the closing of the SPA will occur and that such sources of liquidity will satisfy our obligations, fund working capital needs and allow us to remain compliant with our debt covenants for at least twelve months following the issuance of the financial statements.

We also continue to evaluate generating additional proceeds from various other potential financing transactions, such as issuances of equity, equity-linked and debt securities, or similar transactions to fund our obligations and working capital needs. We remain focused on the financing and construction of the Driftwood Project while managing our marketing & trading operations and upstream assets.

Sources and Uses of Cash

The following table summarizes the sources and uses of our cash and cash equivalents and costs and expenses for the periods presented (in thousands):

	Six Months Ended June 30,	
	2023	2022
Cash provided by (used in) operating activities	\$ 16,080	\$ (83,498)
Cash used in investing activities	(229,326)	(158,739)
Cash (used in) provided by financing activities	(154,246)	786,367
Net (decrease) increase in cash, cash equivalents and restricted cash	(367,492)	544,130
Cash, cash equivalents and restricted cash, beginning of the period	508,468	307,274
Cash, cash equivalents and restricted cash, end of the period	<u>\$ 140,976</u>	<u>\$ 851,404</u>
Net working capital	\$ 6,374	\$ 639,766

Cash provided by (used in) operating activities for the six months ended June 30, 2023 increased by approximately \$99.6 million compared to the same period in 2022 primarily due to net changes in the Company's working capital from December 31, 2022. For further information regarding the net changes in the Company's working capital, see Note 15, *Additional Cash Flow Information*, of our Notes to the Condensed Consolidated Financial Statements.

Cash used in investing activities for the six months ended June 30, 2023 increased by approximately \$70.6 million compared to the same period in 2022. This increase was primarily due to the funding of Driftwood Project construction activities of approximately \$112.6 million in the current period, as compared to approximately \$86.1 million of funding of Driftwood Project construction activities and land purchases and land improvements in the prior period. This increase was also primarily due to increased spending on natural gas development activities of approximately \$95.2 million in the current period, as compared to approximately \$66.5 million in the prior period.

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Cash (used in) provided by financing activities for the six months ended June 30, 2023 decreased by approximately \$940.6 million compared to the same period in 2022. This decrease is primarily due to approximately \$166.7 million in borrowing principal repayments in the current period as compared to \$489.7 million in net proceeds from borrowing issuances in the prior period. The decrease is also due to approximately \$12.8 million in net proceeds from equity issuances as compared to approximately \$299.7 million in the prior period. See Note 8, *Borrowings* and Note 10, *Stockholders' Equity*, of our Notes to the Condensed Consolidated Financial Statements for additional information about our financing activities.

Capital Development Activities

The activities we have proposed will require significant amounts of capital and are subject to completion risks and delays. We have received all regulatory approvals for the construction of Phase 1 of the Driftwood terminal and, as a result, our business success will depend to a significant extent upon our ability to obtain the funding necessary to construct assets on a commercially viable basis and to finance the costs of staffing, operating and expanding our company during that process. In March 2022, we issued a limited notice to proceed to Bechtel Energy Inc. under our Phase 1 EPC Agreement and commenced the construction of Phase 1 of the Driftwood terminal in April 2022.

We currently estimate the total cost of the Driftwood Project to be approximately \$25.0 billion, including owners' costs, transaction costs and contingencies but excluding interest costs incurred during construction and other financing costs. The proposed Driftwood terminal will have a liquefaction capacity of up to approximately 27.6 Mtpa and will be situated on approximately 1,200 acres in Calcasieu Parish, Louisiana. The proposed Driftwood terminal will include up to 20 liquefaction Trains, three full containment LNG storage tanks and three marine berths.

Our strategy involves acquiring additional natural gas properties, including properties in the Haynesville Shale basin. We intend to pursue potential acquisitions of such assets, or public or private companies that own such assets. We expect to use stock, cash on hand, or cash raised in financing transactions to complete an acquisition of this type.

We anticipate funding our more immediate liquidity requirements for the construction of the Driftwood terminal, natural gas activities, and general and administrative expenses through the use of cash on hand, proceeds from operations, and proceeds from completed and future issuances of securities by us. Investments in the construction of the Driftwood terminal and natural gas development are and will continue to be significant, but the size of those investments will depend on, among other things, commodity prices, Driftwood Project financing developments and other liquidity considerations, and our continuing analysis of strategic risks and opportunities. Consistent with our overall financing strategy, the Company has considered, and in some cases discussed with investors, various potential financing transactions, including issuances of debt, equity and equity-linked securities or similar transactions, to support its capital requirements. The Company will continue to evaluate its cash needs and business outlook, and it may execute one or more transactions of this type in the future.

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Results of Operations

The following table summarizes revenue, costs and expenses for the periods presented (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Natural gas sales	31,987	\$ 61,350	\$ 82,922	\$ 87,339
LNG sales	—	—	—	120,951
Total revenue	31,987	61,350	82,922	208,290
Operating expenses	20,848	5,943	38,293	10,108
LNG cost of sales	—	—	—	131,663
Development expenses	11,530	17,687	23,587	35,352
Depreciation, depletion and amortization	25,210	5,854	47,397	9,875
General and administrative expenses	31,290	23,514	63,540	55,839
(Loss) income from operations	(56,891)	8,352	(89,895)	(34,547)
Interest expense, net	(4,182)	(4,566)	(8,192)	(6,846)
Loss on extinguishment of debt, net	—	—	(2,822)	—
Other income (expense), net	1,454	(3,821)	13,797	(25,249)
Income tax	—	—	—	—
Net loss	\$ (59,619)	\$ (35)	\$ (87,112)	\$ (66,642)

The most significant changes affecting our results of operations for the three months ended June 30, 2023 compared to the same period in 2022, on a consolidated basis and by segment, are the following:

Upstream

- Decrease of approximately \$29.4 million in Natural gas sales as a result of decreased realized natural gas prices partially offset by increased production volumes attributable to the acquisition of natural gas properties in 2022 and newly drilled and completed wells during 2023 and 2022.
- Increase of approximately \$14.9 million in Operating expenses as a result of increased production volumes and approximately \$3.2 million of natural gas drilling rig standby costs incurred during the current period.
- Increase of approximately \$19.4 million in DD&A due to the acquisition of natural gas properties in 2022, increased capital expenditures during 2022 and 2023 and increased natural gas production volumes during the current period.

Midstream

- Decrease of approximately \$6.2 million in Development expenses primarily attributable to approximately \$6.2 million in the cost of land and roads donated for public use in the state of Louisiana in the prior period.

Consolidated

- Increase of approximately \$7.8 million in General and administrative expenses primarily attributable to increased marketing expenses during the current period.
- Increase of approximately \$5.3 million in Other income (expense), net primarily attributable to approximately \$11.4 million of realized gains on the settlement of natural gas financial instruments and \$10.9 million of unrealized loss on natural gas financial instruments due to changes in the fair value of the Company's derivative instruments during the current period as compared to \$10.5 million of realized loss and \$6.8 million of unrealized gain on natural gas financial instruments in the prior period.

Primarily as a result of the foregoing, our consolidated Net loss was approximately \$59.6 million for the three months ended June 30, 2023, compared to a Net loss of approximately \$35.0 thousand during the same period in 2022.

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The most significant changes affecting our results of operations for the six months ended June 30, 2023 compared to the same period in 2022, on a consolidated basis and by segment, are the following:

Upstream

- Decrease of approximately \$4.4 million in Natural gas sales as a result of decreased realized natural gas prices partially offset by increased production volumes attributable to the acquisition of natural gas properties in 2022 and newly drilled and completed wells during 2023 and 2022.
- Increase of approximately \$28.2 million in Operating expenses primarily as a result of increased natural gas production volumes and approximately \$3.6 million of natural gas drilling rig standby costs incurred during the current period.
- Increase of approximately \$37.5 million in DD&A primarily attributable to a higher asset net book value utilized in the calculation of DD&A due to the acquisition of natural gas properties in 2022, increased capital expenditures during 2022 and 2023 and increased natural gas production volumes during the current period.

Marketing & Trading

- Decrease of approximately \$121.0 million and approximately \$131.7 million in LNG sales and LNG cost of sales, respectively, as a result of the absence of an LNG cargo that was sold during the first quarter of 2022.

Midstream

- Decrease of approximately \$11.8 million in Development expenses primarily attributable to the capitalization of directly identifiable Driftwood Project costs as construction in progress during the current period, which were expensed in the prior period and \$6.2 million in the cost of land and roads donated for public use in the state of Louisiana in the prior period.

Consolidated

- Increase of approximately \$7.8 million in General and administrative expenses primarily attributable to increased marketing expenses during the current period.
- Increase of approximately \$1.3 million in Interest expense, net due to increased interest charges as a result of higher outstanding borrowing obligations during 2023 as compared to 2022. The increase in Interest expense, net was partially offset by approximately \$8.0 million of capitalized interest and \$5.5 million of interest income during 2023. For further information regarding the Company's outstanding borrowing obligations, see Note 8, *Borrowings*, of our Notes to the Condensed Consolidated Financial Statements.
- Increase of approximately \$2.8 million in Loss on extinguishment of debt, net due to the repayment of approximately \$166.7 million of the Company's Convertible Notes, which resulted in the write-off of approximately \$2.8 million of unamortized debt issuance costs.
- Increase of approximately \$39.0 million in Other income (expense), net primarily attributable to approximately \$23.3 million of realized gains on the settlement of natural gas financial instruments and \$10.5 million of unrealized loss on natural gas financial instruments due to changes in the fair value of the Company's derivative instruments during the current period as compared to \$11.3 million of realized loss and \$8.3 million of unrealized loss on natural gas financial instruments in the prior period.

As a result of the foregoing, our consolidated Net loss was approximately \$87.1 million for the six months ended June 30, 2023, compared to a Net loss of approximately \$66.6 million during the same period in 2022.

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Recent Accounting Standards

We do not believe that any recently issued, but not yet effective, accounting standards, if currently adopted, would have a material effect on our Condensed Consolidated Financial Statements or related disclosures.

Critical Accounting Estimates

There were no changes made by management to the critical accounting policies in the three months ended June 30, 2023. Please refer to the Summary of Critical Accounting Estimates section within Management's Discussion and Analysis and Note 2 to the Consolidated Financial Statements of our Annual Report on Form 10-K for the year ended December 31, 2022 for a discussion of our critical accounting estimates and accounting policies.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of June 30, 2023, there were no open natural gas financial instrument positions. Accordingly, we do not believe that we hold, or are party to, instruments that are subject to market risks that are material to our Business. Refer to Note 5, *Financial Instruments*, of the Condensed Consolidated Financial Statements included in this Quarterly Report for additional details about our financial instruments.

ITEM 4. CONTROLS AND PROCEDURES

As indicated in the certifications in Exhibits 31.1 and 31.2 to this report, our Chief Executive Officer and Chief Financial Officer have evaluated our disclosure controls and procedures as of June 30, 2023. Based on that evaluation, these officers have concluded that our disclosure controls and procedures are effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to them in a manner that allows for timely decisions regarding required disclosures and are effective in ensuring that such information is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. There were no changes during our last fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

None.

ITEM 1A. RISK FACTORS

There have been no material changes to the risk factors disclosed in Part I, Item 1A, of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, and Part II, Item 1A, of our Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2023, other than as follows:

Non-U.S. holders of our common stock, in certain situations, could be subject to U.S. federal income tax upon sale, exchange or disposition of our common stock.

We are currently, and may remain in the future, a U.S. real property holding corporation for U.S. federal income tax purposes because the fair market value of our assets that consist of "United States real property interests," as defined in the Internal Revenue Code of 1986, as amended, and applicable Treasury regulations, constitutes at least 50% of the combined fair market value of our real estate interests and other business assets. As a result, under the Foreign Investment in Real Property Tax Act, or FIRPTA, certain non-U.S. investors could be subject to U.S. federal income tax on any gain from the disposition of shares of our common stock, in which case they would also be required to file U.S. tax returns with respect to such gain. In general, whether these FIRPTA provisions apply in such case would depend on the amount of our common stock that such non-U.S. investors hold. In addition, such non-U.S. investors could be subject to withholding in such case if, at the time they dispose of their shares, our common stock is not regularly traded on an established securities market within the meaning of the applicable Treasury regulations. So long as our common stock continues to be regularly traded on an established securities market, only a non-U.S. investor who has owned, actually or constructively, more than 5% of our common stock at any time during the shorter of (i) the five-year period ending on the date of disposition and (ii) the non-U.S. investor's holding period for its shares may be subject to U.S. federal income tax on the disposition of our common stock under FIRPTA.

Our Executive Chairman, Charif Souki, has personal investments and interests that have at times become interrelated with the interests of the Company. These investments and interests may result in conflicts of interest or other impacts on the Company.

Mr. Souki has a variety of personal business interests and actions taken in his personal capacity have in some cases affected the Company. For example, in April 2023, the Company became aware of certain facts and claims associated with outstanding loan agreements (the "Souki Loans") between UBS O'Connor LLC ("UBS O'Connor"), Mr. Souki, and certain entities related to Mr. Souki (collectively, "Souki") included in a lawsuit filed in a New York state court by Souki against UBS

O'Connor. In the lawsuit, Souki asserts claims for, among other things, breach of the duty of good faith and fair dealing and breach of contract in connection with UBS O'Connor's foreclosure on certain assets held as collateral under the Souki Loans, including certain shares of the Company's stock. In particular, Souki has alleged, among other things, that Souki and UBS O'Connor agreed in 2020 to approach the renegotiation of the terms of the Souki Loans and the Tellurian Loan "holistically", an agreement that was not disclosed to the Company. Accordingly, this situation may have created a conflict of interest between Mr. Souki's interests and those of the Company. In addition, pledged shares for the Souki Loans were foreclosed upon in 2023 and sold into the market, which may have caused a significant decrease in the Company's stock price. Further, two entities owned by Mr. Souki declared bankruptcy in July 2023. These and other events relating to, or actions taken by or involving, Mr. Souki in his personal capacity may have an impact on the Company. Policies and procedures designed to mitigate potential conflicts of interest are subject to inherent limitations and may not result in all such conflicts being identified and addressed in a timely manner.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Recent Sales of Unregistered Securities

None that occurred during the three months ended June 30, 2023.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

None that occurred during the three months ended June 30, 2023.

ITEM 5. OTHER INFORMATION

Insider Trading Arrangements and Policies

During the three months ended June 30, 2023, none of our directors or executive officers adopted or terminated a "Rule 10b5-1 trading arrangement" or a "non-Rule 10b5-1 trading arrangement" (as such terms are defined in Item 408 of Regulation S-K).

ITEM 6. EXHIBITS

Exhibit No.	Description
3.1	Amended and Restated Certificate of Incorporation of Tellurian Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on June 7, 2023)
4.1	Indenture, dated as of June 3, 2022, by and between Tellurian Inc., as issuer, and Wilmington Trust, National Association, as trustee (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on June 3, 2022)
4.2	Third Supplemental Indenture, dated as of June 16, 2023, by and among Tellurian Inc., as issuer, Wilmington Trust, National Association, as trustee, and the collateral agent named therein, relating to the 6.00% Senior Secured Convertible Notes due 2025 (incorporated by reference to Exhibit 4.4 to the Company's Current Report on Form 8-K filed on June 20, 2023)
4.3	Fourth Supplemental Indenture, dated as of June 29, 2023, by and between Tellurian Inc., as issuer, and Wilmington Trust, National Association, as trustee, relating to the 6.00% Senior Secured Convertible Notes due 2025 (incorporated by reference to Exhibit 4.5 to the Company's Current Report on Form 8-K filed on June 29, 2023)
4.4	Fifth Supplemental Indenture, dated as of July 14, 2023, by and between Tellurian Inc., as issuer, and Wilmington Trust, National Association, as trustee, relating to the 6.00% Senior Secured Convertible Notes due 2025 (incorporated by reference to Exhibit 4.6 to the Company's Current Report on Form 8-K filed on July 17, 2023)
4.5	Sixth Supplemental Indenture, dated as of July 28, 2023, by and between Tellurian Inc., as issuer, and Wilmington Trust, National Association, as trustee, relating to the 6.00% Senior Secured Convertible Notes due 2025 (incorporated by reference to Exhibit 4.7 to the Company's Current Report on Form 8-K filed on July 31, 2023)
10.1†	Securities Purchase Agreement, dated as of August 8, 2023, by and between Tellurian Inc. and the investor named therein
10.2	Redemption Letter Agreement, dated as of August 8, 2023, by and among Tellurian Inc. and the other parties named therein
31.1*	Certification by Chief Executive Officer required by Rule 13a-14(a) and 15d-14(a) under the Exchange Act
31.2*	Certification by Chief Financial Officer required by Rule 13a-14(a) and 15d-14(a) under the Exchange Act
32.1**	Certification by Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2**	Certification by Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Labels Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2023, formatted in Inline XBRL

* Filed herewith.

** Furnished herewith.

† Certain schedules or similar attachments to this exhibit have been omitted in accordance with Item 601(a)(5) of Regulation S-K. The registrant hereby agrees to furnish supplementally to the Securities and Exchange Commission upon request a copy of any omitted schedule or attachment to this exhibit.

SIGNATURES

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

TELLURIAN INC.

Date: August 9, 2023

By: /s/ Simon G. Oxley
Simon G. Oxley
Chief Financial Officer
(as Principal Financial Officer)
Tellurian Inc.

August 9, 2023

By: /s/ Khaled A. Sharafeldin
Khaled A. Sharafeldin
Chief Accounting Officer
(as Principal Accounting Officer)
Tellurian Inc.

SECURITIES PURCHASE AGREEMENT

This **SECURITIES PURCHASE AGREEMENT** (the “**Agreement**”), dated as of August 8, 2023, is by and among Tellurian Inc., a Delaware corporation with offices located at 1201 Louisiana Street, Suite 3100, Houston, Texas 77002 (the “**Company**”), and each of the investors listed on the Schedule of Buyers attached hereto (each individually, a “**Buyer**” and collectively, the “**Buyers**”).

RECITALS

A. The Company and each Buyer is executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the “**1933 Act**”), and Rule 506(b) of Regulation D (“**Regulation D**”) as promulgated by the United States Securities and Exchange Commission (the “**SEC**”) under the 1933 Act.

B. The Company has authorized a new series of Senior Secured Convertible Notes due 2025 in the form attached hereto as **Exhibit A** (the “**Convertible Notes**”), which shall under certain circumstances entitle the Buyers to receive shares of the Company’s common stock, par value \$0.01 per share (together with any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock, the “**Common Stock**”) and a new series of Senior Secured Notes in the form attached hereto as **Exhibit B**, which shall also under certain circumstances entitle the Buyers to receive shares of the Company’s Common Stock (the “**Non-Convertible Notes**”) and, together with the Convertible Notes, the “**Notes**”) (such underlying shares of Common Stock issuable pursuant to the terms of the Notes, the “**Note Shares**”). The Notes will be issued pursuant to that certain Base Indenture (the “**Base Indenture**”), dated as of June 3, 2022, between the Company and Wilmington Trust, N.A., as trustee (in such capacity, together with its successors and permitted assigns, the “**Trustee**”), and an Eighth Supplemental Indenture (the “**Eighth Supplemental Indenture**”), with respect to the Non-Convertible Note, and a Ninth Supplemental Indenture, with respect to the Convertible Note, (the “**Ninth Supplemental Indenture**”) and together with the Eighth Supplemental Indenture and the Base Indenture, collectively the “**Indenture**”) in the forms attached hereto as **Exhibits C-1** and **C-2**, respectively, to be dated as of the Closing Date (as defined below), by and among the Company, the Trustee and the collateral agent named therein (in such capacity, together with its successors and permitted assigns, the “**Collateral Agent**”).

C. Each Buyer wishes to purchase, and the Company wishes to sell, upon the terms and conditions stated in this Agreement, the aggregate principal amount of Convertible Notes set forth opposite such Buyer’s name in column (3) on the Schedule of Buyers.

D. Each Buyer wishes to purchase, and the Company wishes to sell, upon the terms and conditions stated in this Agreement, the aggregate principal amount of Non-Convertible Notes set forth opposite such Buyer’s name in column (5) on the Schedule of Buyers.

E. At the Closing (as defined below), the parties hereto shall execute and deliver the Collateral Trust Agreement, in the form attached hereto as **Exhibit D** (the “**Collateral Trust Agreement**”), pursuant to which the holders of the Notes agree that the Collateral Trustee (as defined in the Collateral Trust Agreement) will hold all security on behalf of the holders of the Notes, and the Collateral Trustee shall execute and deliver the Pledge Agreement, in the form attached hereto as **Exhibit E** (the “**Pledge Agreement**”) and, together with the Collateral Trust Agreement, the “**Collateral Agreements**”), pursuant to which (i) Tellurian Investments LLC, a direct wholly owned subsidiary of the Company (“**Investments**”) will grant a first priority security interest (subject to certain Permitted Liens (as defined in the Indenture)) to the Collateral

Trustee, as collateral trustee for the holders of the Notes, in all of the equity interests held by Investments in Tellurian Production Holdings LLC (“**Production LLC**”), and (ii) Production LLC and Production LLC’s direct and indirect wholly owned Subsidiaries (as defined below) will be required to grant a first priority security interest (subject to certain Permitted Liens (as defined in the Indenture)) within sixty (60) days of the Closing (or such later date as agreed to by the Collateral Trustee in its sole discretion) and deliver Mortgages (as defined in the Indenture) to the Collateral Trustee, as collateral trustee for the holders of the Notes, in all material real property oil and gas real estate assets of Production LLC and its direct and indirect wholly owned Subsidiaries (as further set forth on **Exhibit I** attached hereto).

F. The Notes and Note Shares are collectively referred to herein as the “**Securities**.”

G. The Company understands that HB Fund LLC is the holder of a Senior Secured Convertible Notes due 2025 (the “**Prior Note**”) issued by the Company pursuant to that certain Securities Purchase Agreement, dated June 1, 2022, by and between the Company and the investor named therein (the “**Prior SPA**”).

H. Pursuant to the Prior SPA, the Holders (as defined in the Prior Note) and the Company or its Subsidiaries entered into certain transaction documents, which included the Prior SPA, the Prior Note, that certain Pledge Agreement, dated as of June 3, 2022, between Investments and the collateral agent named therein (each of such other written agreements and instruments entered into or delivered by any of the parties thereto in connection with the transactions contemplated thereby, as may be amended from time to time being referred to collectively as the “**Prior Transaction Documents**”).

I. Hudson Bay PH VIII LLC, HB Fund LLC and the Company have entered into a letter agreement attached hereto as **Exhibit F** (the “**Redemption Letter Agreement**”) pursuant to which Hudson Bay PH VIII LLC, HB Fund LLC and the Company have agreed that immediately following the completion of the issuance and sale of the Notes pursuant to this Agreement, the Company will redeem the Prior Note in accordance with the terms of the Redemption Letter Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each Buyer hereby agree as follows:

1. PURCHASE AND SALE OF PURCHASED SECURITIES.

(a) **Purchase of Purchased Securities.** Subject to the satisfaction (or waiver) of the conditions set forth in **Sections 6 and 7**, the Company shall, in reliance upon the exemptions from securities registration afforded by Section 4(a)(2) of the 1933 Act and Rule 506(b) of Regulation D, issue and sell to each Buyer, and each Buyer severally, but not jointly, agrees to purchase from the Company on the Closing Date (as defined below) the aggregate principal amount of Convertible Notes as is set forth opposite such Buyer’s name in column (3) on the Schedule of Buyers and the aggregate principal amount of Non-Convertible Notes as is set forth opposite such Buyer’s name in column (5) on the Schedule of Buyers (collectively, the “**Purchased Securities**”).

(b) **Closing.** The closing (the “**Closing**”) of the purchase of the Purchased Securities by the Buyers shall occur by electronic transmission or other transmission as mutually acceptable to the parties. The date and time of the Closing (the “**Closing Date**”) shall be 10:00 a.m., New

York time, on the first (1st) Business Day on which the conditions to the Closing set forth in Sections 6 and 7 are satisfied or waived (or such other date as is mutually agreed to by the Company and each Buyer). As used herein “**Business Day**” means any day other than a Saturday, a Sunday or any day on which commercial banks in The City of New York are authorized or required by law or executive order to close or be closed; provided, however, for clarification, commercial banks in The City of New York shall not be deemed to be authorized or required by law or executive order to close or be closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are open for use by customers on such day.

(c) Securities Purchase Price. The aggregate purchase price for the Purchased Securities to be purchased by each Buyer (the “**Purchase Price**”) shall be the aggregate amount set forth opposite such Buyer’s name in columns (4) and (6) on the Schedule of Buyers.

(d) Form of Payment for Purchased Securities. On the Closing Date, (i) each Buyer shall pay its respective Purchase Price to the Company for the aggregate principal amount of Purchased Securities to be issued and sold to such Buyer at the Closing Date (net of Transaction Expenses (as defined below)) in accordance with a Flow of Funds Letter (as defined below) with respect to the Purchased Securities and (ii) the Company shall deliver to each Buyer its respective aggregate principal amount of Purchased Securities, duly executed on behalf of the Company and registered on the books and records of the Company in the name of such Buyer or its designee.

2. BUYER’S REPRESENTATIONS AND WARRANTIES.

Each Buyer, severally and not jointly, represents and warrants to the Company with respect to only itself that, as of the date hereof and as of the Closing Date:

(a) Organization; Authority. Such Buyer is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with the requisite power and authority to conduct its business as currently conducted and enter into and to consummate the transactions contemplated by the Transaction Documents (as defined below) to which it is a party and otherwise to carry out its obligations hereunder and thereunder.

(b) No Public Sale or Distribution. Such Buyer (i) is acquiring its Purchased Securities, and (ii) upon exercise of, or otherwise in accordance with, its Purchased Securities will acquire the Note Shares issuable upon exercise thereof, or otherwise in accordance therewith, in each case, for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof in violation of applicable securities laws, except pursuant to sales registered or exempted under the 1933 Act; provided, however, by making the representations herein, such Buyer does not agree, or make any representation or warranty, to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption from registration under the 1933 Act. Such Buyer does not presently have any agreement or understanding, directly or indirectly, with any Person to distribute any of the Securities in violation of applicable securities laws. For purposes of this Agreement, “**Person**” means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and any Governmental Entity (as defined below) or any department or agency thereof.

(c) Accredited Investor Status. At the time such Buyer was offered the Securities, it was and, as of the date hereof, such Buyer is an “accredited investor” as that term is defined in Rule 501(a) of Regulation D.

(d) Reliance on Exemptions. Such Buyer understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and such Buyer’s compliance with, the representations, warranties, agreements, acknowledgments and understandings of such Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of such Buyer to acquire the Securities.

(e) Information. Such Buyer and its advisors, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities that have been requested by such Buyer. Such Buyer and its advisors, if any, have had (i) the opportunity to review the Transaction Documents and the SEC Documents (as defined below) and has been afforded the opportunity to ask such questions of the Company as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Neither such inquiries nor any other due diligence investigations conducted by such Buyer or its advisors, if any, or its representatives shall modify, amend or affect such Buyer’s right to rely on the Company’s representations and warranties contained herein. Such Buyer understands that its investment in the Securities involves a high degree of risk. Such Buyer acknowledges that it can bear the economic risk and complete loss of its investment in the Securities and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment contemplated hereby. Such Buyer did not learn of the investment in the Securities as a result of any general solicitation or general advertising. Such Buyer has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Securities. Such Buyer is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, except for statements, representations and warranties contained in this Agreement, in making its investment or decision to invest in the Company.

(f) No Governmental Review. Such Buyer understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(g) Transfer or Resale. Such Buyer understands that: (i) the Securities have not been registered under the 1933 Act or any state securities laws, and may not be offered for sale, sold, assigned or transferred by any Buyer or any other holder of such Securities unless (A) subsequently registered thereunder, (B) such Buyer shall have delivered to the Company (if requested by the Company) an opinion of counsel, in a form reasonably acceptable to the Company, to the effect that such Securities to be sold, assigned or transferred may be sold, assigned or transferred pursuant to an exemption from such registration, or (C) such Buyer provides the Company with reasonable assurance that such Securities can be sold, assigned or

transferred pursuant to Rule 144 or Rule 144A promulgated under the 1933 Act (or a successor rule thereto) (collectively, “**Rule 144**”); and (ii) any sale of the Securities made in reliance on Rule 144 may be made only in accordance with the terms of Rule 144, and further, if Rule 144 is not applicable, any resale of the Securities under circumstances in which the seller (or the Person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC promulgated thereunder; provided, that, from and after the date that the Purchased Securities may be resold in accordance with the terms of Rule 144 without any requirement other than with respect to holding period (which holding period is then satisfied) at the request of any Buyer, the Company shall deliver to such Buyer or the Company’s transfer agent, as applicable, an opinion of counsel to the Company or its transfer agent, at the Company’s expense and in a form reasonably acceptable to such Buyer, that a sale of the Securities may be made in accordance with the terms of Rule 144. Notwithstanding the foregoing, the Securities may be pledged in connection with a bona fide margin account or other loan or financing arrangement secured by the Securities and such pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and no Buyer effecting a pledge of Securities shall be required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or any other Transaction Document (as defined in Section 3(b)), including, without limitation, this Section 2(g); provided, however, that any foreclosure upon any Securities in connection with such a pledge will be considered a transfer that requires compliance with the applicable terms of this Agreement and all applicable securities laws.

(h) Validity; Enforcement. This Agreement has been duly and validly authorized, executed and delivered on behalf of such Buyer and shall constitute the legal, valid and binding obligations of such Buyer enforceable against such Buyer in accordance with its terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors’ rights and remedies.

(i) No Conflicts. The execution, delivery and performance by such Buyer of this Agreement and the consummation by such Buyer of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of such Buyer, or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Buyer is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Buyer, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which could not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Buyer to perform its obligations hereunder.

(j) No Bad Actor Disqualification Event. Such Buyer represents, after reasonable inquiry, that none of the “Bad Actor” disqualifying events described in Rule 506(d)(1)(i) to (viii) under the 1933 Act (a “**Disqualification Event**”) is applicable to such Buyer or any of its Rule 506(d) Related Parties (if any). “**Rule 506(d) Related Party**” means a person or entity that is a beneficial owner of such Buyer’s securities for purposes of Rule 506(d).

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each of the Buyers that, as of the date hereof and as of the Closing Date:

(a) Organization and Qualification. Each of the Company and each of its Subsidiaries are entities duly organized and validly existing and in good standing (if a good standing concept exists in such jurisdiction) under the laws of the jurisdiction in which they are formed, and have the requisite organizational power and authority to own their properties and to carry on their business as now being conducted. Each of the Company and each of its Subsidiaries is duly qualified as a foreign entity to do business and is in good standing (if a good standing concept exists in such jurisdiction) in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect (as defined below). As used in this Agreement, “**Material Adverse Effect**” means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, (ii) the business, properties, assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of Production LLC, (iii) the transactions contemplated hereby or in any of the other Transaction Documents or any other agreements or instruments to be entered into in connection herewith or therewith, taken as a whole, or (iv) the authority or ability of the Company or any of its Subsidiaries to perform any of their respective obligations under any of the Transaction Documents. Other than the Persons (as defined below) set forth on Schedule 3(a), the Company has no significant Subsidiaries within the meaning of Rule 1-02(w) of Regulation S-X. “**Subsidiaries**” means any Person in which the Company, directly or indirectly, (I) owns a majority of the outstanding capital stock or holds any equity or similar interest of such Person or (II) controls or operates the business, operations and administration of such Person, and each of the foregoing, is individually referred to herein as a “**Subsidiary**.”

(b) Authorization; Enforcement; Validity. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents and to issue the Securities in accordance with the terms hereof and thereof. Investments has the requisite organizational power and authority to enter into and perform its obligations under the Pledge Agreement. The execution and delivery of this Agreement and the other Transaction Documents by the Company or Investments, as applicable, to which each is a party, and the consummation by the Company and Investments of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Notes, the reservation for issuance (as described in Section 3(c)) and issuance of the Note Shares) have been duly authorized by the Company’s Board of Directors (the “**Board of Directors**”), and (other than (i) any filings as may be required by any state securities agencies, (ii) a Supplemental Listing Application with the Principal Market (as defined below), (iii) the filing of the Prospectus Supplement (as defined below) and (iv) filings contemplated by the Collateral Agreements (collectively, the “**Required Filings**”)) no further filing, consent or authorization is required by the Company or the Board of Directors or its stockholders. This Agreement has been, and the other Transaction Documents to which it is a party will be prior to the Closing, duly executed and delivered by the Company (with respect to the Notes, in the form contemplated by the Indenture), and each constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors’ rights and remedies and except as rights to indemnification and to contribution that may be limited by federal or state securities law. “**Transaction Documents**” means, collectively, this Agreement, the Notes, the Indenture, the Collateral Agreements, the Redemption Letter Agreement and each of the other written agreements and instruments entered into or delivered by any of the parties hereto in connection with the transactions contemplated hereby and thereby, as may be amended from time to time.

(c) Issuance of Securities. The issuance of the Securities is duly authorized and, when issued and delivered in accordance with the terms of the Transaction Documents, the Securities shall be validly issued, fully paid and non-assessable, free from all preemptive or similar rights, mortgages, defects, claims, liens, pledges, charges, taxes, rights of first refusal, encumbrances, security interests and other encumbrances (collectively “**Liens**”) with respect to the issuance thereof, and, in the case of the Notes, entitled to the benefits of the Indenture. As of the Closing, the Company shall have reserved for any issuance of Note Shares from its duly authorized capital stock 68,414,528 shares of Common Stock. Upon issuance in accordance with the Indenture or Notes, as applicable, the Note Shares when issued, will be validly issued, fully paid and nonassessable and free from all preemptive or similar rights or Liens with respect to the issuance thereof and with the holders being entitled to all rights accorded to a holder of Common Stock.

(d) No Conflicts. The execution, delivery and performance of the Transaction Documents by the Company or Investments, as applicable, and the consummation by the Company or Investments, as applicable, of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Notes and the Note Shares and the reservation for issuance of the Note Shares) will not (i) result in a violation of the Certificate of Incorporation (as defined below), Bylaws (as defined below), certificate of formation, memorandum of association, articles of association, bylaws or other organizational documents of the Company or any of its Subsidiaries, or any capital stock or other securities of the Company or any of its Subsidiaries, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) in any respect under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company or any of its Subsidiaries is a party, or (iii) assuming the accuracy of the representations and warranties in Section 2, result in a violation of any law, rule, regulation, order, judgment or decree (including, without limitation, foreign, federal and state securities laws and regulations and the rules and regulations of the NYSE American (the “**Principal Market**”) and including all applicable foreign, federal and state laws, rules and regulations) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected, assuming, with respect to clauses (ii) and (iii) above, the making of the Required Filings and except in the case of clauses (ii) and (iii) above, for such breaches, violations or conflicts as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(e) Consents. Neither the Company nor any Subsidiary is required to obtain any consent from, authorization or order of, or make any filing or registration with (other than the filings necessary to perfect the Liens granted under the Collateral Agreements, Required Filings and such consents, authorizations, filings or registrations the absence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), any Governmental Entity or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its respective obligations under or contemplated by the Transaction Documents, in each case, in accordance with the terms hereof or thereof. To the Company’s knowledge, other than the filings necessary to perfect the Liens granted under the Collateral Agreements and the Required Filings, all consents, authorizations, orders, filings and registrations which the Company or any Subsidiary is required to obtain pursuant to the preceding sentence have been or will be obtained or effected on or prior to the Closing Date, and neither the Company nor any of its Subsidiaries are aware of any facts or circumstances which are reasonably likely to prevent the Company or any of its Subsidiaries from obtaining or effecting any of the registration, application or filings contemplated by the Transaction Documents. The Company is not in violation of the requirements of the Principal Market and, except with respect to future changes in the market price of the shares of Common Stock, has no knowledge of any facts or circumstances which could reasonably lead to delisting or suspension

of the Common Stock. “**Governmental Entity**” means any nation, state, county, city, town, village, district, or other political jurisdiction of any nature, federal, state, local, municipal, foreign, or other government, governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal), multi-national organization or body; or body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature or instrumentality of any of the foregoing, including any entity or enterprise owned or controlled by a government or a public international organization or any of the foregoing.

(f) Acknowledgment Regarding Buyer’s Purchase of Securities. The Company acknowledges and agrees that each Buyer is acting solely in the capacity of an arm’s length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby and that no Buyer is (i) an officer or director of the Company or any of its Subsidiaries, (ii) an “affiliate” (as defined in Rule 144) of the Company or any of its Subsidiaries or (iii) to its knowledge, a “beneficial owner” (as defined for purposes of Rule 13d-3 of the 1934 Act) of more than 4.99% of the shares of any voting class of the Company’s Common Stock. The Company further acknowledges that no Buyer is acting as a financial advisor or fiduciary of the Company or any of its Subsidiaries (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby, and any advice given by a Buyer or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to such Buyer’s purchase of the Securities. The Company further represents to each Buyer that the Company’s and each Subsidiary’s decision to enter into the Transaction Documents to which it is a party has been based solely on the independent evaluation by the Company, each Subsidiary and their respective representatives.

(g) No General Solicitation; Placement Agent. Neither the Company, nor any of its Subsidiaries or affiliates, nor any Person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities. Neither the Company nor any of its Subsidiaries has engaged any placement agent or other agent in connection with the offer or sale of the Securities. The Company shall be responsible for the payment of any placement agent’s fees, financial advisory fees, or brokers’ commissions (other than for Persons engaged by any Buyer or its investment advisor) relating to or arising out of the transactions contemplated hereby. The Company shall pay, and hold each Buyer harmless against, any liability, loss or expense (including, without limitation, attorney’s fees and reasonable and documented out-of-pocket expenses) arising in connection with any such claim.

(h) No Integrated Offering. None of the Company, its Subsidiaries or any of their affiliates, nor any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require approval of stockholders of the Company in connection with the offering of the Securities for purposes of the 1933 Act or under any applicable stockholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated for quotation. None of the Company, its Subsidiaries, nor their affiliates nor any Person acting on their behalf has taken or will take any action or steps that would cause the offering of any of the Securities to be integrated with other offerings of securities of the Company.

(i) Dilutive Effect. The Company acknowledges that its obligation to issue the Note Shares pursuant to the terms of the Notes in accordance with the terms thereof and this

Agreement is absolute and unconditional regardless of the dilutive effect that such issuance may have on the ownership interests of other stockholders of the Company.

(j) Application of Takeover Protections. The Company and its Board of Directors have taken or will take prior to the Closing Date all necessary action, if any, in order to render inapplicable any control share acquisition, interested stockholder, business combination, poison pill, stockholder rights plan or other similar anti-takeover provision under the Certificate of Incorporation, Bylaws or other organizational documents or the laws of the jurisdiction of its incorporation which is or could become applicable to any Buyer as a result of the transactions contemplated by this Agreement, including, without limitation, the Company's issuance of the Securities and any Buyer's ownership of the Securities.

(k) Financial Statements. During the one (1) year prior to the date hereof and the Closing Date, the Company has timely filed all reports, schedules, forms, proxy statements, statements and other documents required to be filed by it with the SEC (other than Section 16 ownership filings) pursuant to the reporting requirements of the 1934 Act (reports filed in compliance with the time period specified in Rule 12b-25 promulgated under the 1934 Act shall be considered timely for this purpose) (all of the foregoing filed prior to the date hereof and the Closing Date and all exhibits and appendices included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "**SEC Documents**"). The Company has delivered or has made available to the Buyers or their respective representatives true, correct and complete copies of each of the SEC Documents not available on the EDGAR system. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto as in effect as of the time of filing. Such financial statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**"), consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments which are not anticipated to be material as of the date hereof, individually or in the aggregate) in accordance with GAAP. The Company is not currently contemplating to amend or restate any of the financial statements (including, without limitation, any notes or any letter of the independent accountants of the Company with respect thereto) included in the SEC Documents (the "**Financial Statements**"), nor is the Company currently aware of facts or circumstances which would require the Company to amend or restate any of the Financial Statements, in each case, in order for any of the Financial Statements to be in material compliance with GAAP and the rules and regulations of the SEC. The Company has not been informed by its independent auditors that they recommend that the Company amend or restate any of the Financial Statements or that there is any need for the Company to amend or restate any of the Financial Statements.

(l) Absence of Certain Changes. Since the date of the Company's audited financial statements contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2022 (the "**Annual Report**"), except as disclosed in a subsequent SEC Document filed prior to the date hereof, there has been no development in the business, assets, liabilities,

properties, operations (including results thereof), or condition (financial or otherwise) of the Company or any of its Subsidiaries that has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Since the date of the Company's audited financial statements contained in the Annual Report, except as disclosed in a subsequent SEC Document filed prior to the date hereof or as set forth on Schedule 3(l), neither the Company nor any of its Subsidiaries has (i) declared or paid any dividends, (ii) sold any assets, individually or in the aggregate, outside of the ordinary course of business, (iii) made any capital expenditures, individually or in the aggregate, outside of the ordinary course of business or (iv) made any revaluation of any of their respective assets, including, without limitation, writing down the value of capitalized inventory or writing off notes or accounts receivable or any sale of assets other than in the ordinary course of business.

(m) Insolvency. Neither the Company nor any of its Subsidiaries has taken any steps to seek protection pursuant to any law or statute relating to bankruptcy, insolvency, reorganization, receivership, liquidation or winding up, nor does the Company or any Subsidiary have any knowledge of any pending or threatened, or reason to believe that any of their respective creditors intend to initiate, involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. Neither the Company and its Subsidiaries, on a consolidated basis, nor Production LLC and its Subsidiaries, on a consolidated basis, are as of the date hereof and as of the Closing Date, and after giving effect to the transactions contemplated hereby to occur at the Closing, will be Insolvent (as defined below). For purposes of this Section 3(m), "**Insolvent**" means, with respect to the Company and its Subsidiaries, on a consolidated basis, and Production LLC and its Subsidiaries, on a consolidated basis, (A) the present fair saleable value of the Company's and its Subsidiaries', or Production LLC and its Subsidiaries', assets, as applicable, is less than the amount required to pay the Company's and its Subsidiaries', or Production LLC and its Subsidiaries', as applicable, total Indebtedness (as defined below), (B) the Company and its Subsidiaries, or Production LLC and its Subsidiaries, as applicable, are unable to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured or (C) the Company and its Subsidiaries, or Production LLC and its Subsidiaries, as applicable, intend to incur or believe that they will incur debts that would be beyond their ability to pay as such debts mature.

(n) Regulatory Permits. During the two (2) years prior to the date hereof, except as set forth on Schedule 3(n), (i) the Common Stock has been listed or designated for quotation on the Principal Market, (ii) trading in the Common Stock has not been suspended by the SEC or the Principal Market and (iii) the Company has received no communication, written or oral, from the SEC or the Principal Market regarding the suspension or delisting of the Common Stock from the Principal Market. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not reasonably be likely to have, individually or in the aggregate, a Material Adverse Effect and except for drilling and similar permits obtained in the ordinary course of business and permits set forth on Schedule 3(n), and neither the Company nor any such Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit where such revocation or modification would have a Material Adverse Effect.

(o) Foreign Corrupt Practices. Neither the Company, any of the Company's Subsidiaries nor any director, officer or employee thereof, nor to the Company's knowledge, any agent or any other person acting for or on behalf of the foregoing (individually and collectively, a "**Company Affiliate**") has violated the U.S. Foreign Corrupt Practices Act or any other applicable anti-bribery or anti-corruption laws (individually and collectively, "**Anti-Corruption**").

Laws”), nor, to the Company’s knowledge, has any Company Affiliate offered, paid, promised to pay, or authorized the payment of any money, or offered, given, promised to give, or authorized the giving of anything of value, to any officer, employee or any other person acting in an official capacity for any Governmental Entity to any political party or official thereof or to any candidate for political office (individually and collectively, a “**Government Official**”) or to any person under circumstances where such Company Affiliate knew or was aware of a high probability that all or a portion of such money or thing of value would be offered, given or promised, directly or indirectly, to any Government Official, for the purpose of:

- (i) (A) influencing any act or decision of such Government Official in his/her official capacity, (B) inducing such Government Official to do or omit to do any act in violation of his/her lawful duty, (C) securing any improper advantage, or (D) inducing such Government Official to influence or affect any act or decision of any Governmental Entity, or
- (ii) assisting the Company or its Subsidiaries in obtaining or retaining business for or with, or directing business to, the Company or its Subsidiaries.

Neither the Company nor any of its Subsidiaries will use, directly or, to their knowledge, indirectly, any part of the proceeds of the offering in any manner that would constitute a violation of Anti-Corruption Laws.

(p) Sarbanes-Oxley Act. The Company and each Subsidiary is in material compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended, and any and all applicable rules and regulations promulgated by the SEC thereunder.

(q) Transactions With Affiliates. Except as set forth on Schedule 3(q) or as disclosed in an SEC Document, no current employee, director or officer of the Company or any holder (direct or indirect) of five percent (5%) or more of the Common Stock or holder of stock of any of the Company’s Subsidiaries, or, to the knowledge of the Company, any associate or affiliate of any thereof or any relative with a relationship no more remote than first cousin of any of the foregoing, is presently (i) a party to any transaction with the Company or its Subsidiaries (including any contract, agreement or other arrangement providing for the furnishing of services by, or rental of real or personal property from, or otherwise requiring payments to, any such director, officer or shareholder or any such associate, affiliate or relative (other than for ordinary course services as employees, officers, directors or consultants of the Company or any of its Subsidiaries)) or (ii) to the knowledge of the Company, the direct or indirect owner of an interest in any corporation, firm, association or business organization which is a competitor, supplier or customer of the Company or its Subsidiaries (except for a passive investment (direct or indirect) in less than 5% of the common stock or ordinary shares, as applicable, of a company whose securities are traded on or quoted through an Eligible Market (as defined below)), nor, to the knowledge of the Company, does any such Person receive income from any source other than the Company or its Subsidiaries which relates to the business of the Company or its Subsidiaries or should properly accrue to the Company or its Subsidiaries. No employee, officer, shareholder or director of the Company or any of its Subsidiaries or member of his or her immediate family is indebted to the Company or its Subsidiaries, as the case may be, nor is the Company or any of its Subsidiaries indebted (or committed to make loans or extend or guarantee credit) to any of them, other than (i) for payment of salary and incentive compensation awards, (ii) reimbursement for reasonable expenses incurred on behalf of the Company or its Subsidiaries, as the case may be, and (iii) for other customary employee benefits.

(r) Equity Capitalization.

(i) Authorized and Outstanding Capital Stock. As of the date hereof and as of the Closing, the authorized capital stock of the Company consists of (A) 1,600,000,000 shares of Common Stock, of which 581,819,726 are issued and outstanding as of the date hereof and 30,938,048 shares are reserved for issuance pursuant to Convertible Securities (as defined below) (other than the Notes, the Company securities set forth on Schedule 3(r)(i), and the Series C Preferred Stock (as defined below)) exercisable or exchangeable for, or convertible into, shares of Common Stock and (B) 100,000,000 shares of preferred stock, par value \$0.01 per share, of which 8,000,000 shares are designated as Series C convertible preferred stock (the “**Series C Preferred Stock**”), of which 6,123,782 shares of Series C Preferred Stock are issued and outstanding. No shares of Common Stock are held in the treasury of the Company. “**Convertible Securities**” means any capital stock or other security of the Company or any of its Subsidiaries that is at any time and under any circumstances directly or indirectly convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any capital stock (including, without limitation, Common Stock) or other security of the Company (including, without limitation, any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities (collectively, “**Options**”)) or any of its Subsidiaries.

(ii) Valid Issuance; Available Shares; Affiliates. All of the outstanding shares of Common Stock are duly authorized and have been validly issued and are fully paid and nonassessable. Schedule 3(r)(ii) sets forth the number of shares of Common Stock that are (A) reserved for issuance pursuant to Convertible Securities (other than the Notes and the Company securities set forth on Schedule 3(r)(i)) as of the date hereof and as of the Closing and (B) that are, as of the date hereof, owned by Persons who are “affiliates” (as defined in Rule 405 of the 1933 Act and calculated based on the assumption that only officers, directors and holders of at least 10% of the Company’s issued and outstanding Common Stock are “affiliates” without conceding that any such Persons are “affiliates” for purposes of federal securities laws) of the Company or any of its Subsidiaries. To the Company’s knowledge, as of the date hereof, except as disclosed in the SEC Documents, no Person owns 10% or more of the Company’s issued and outstanding shares of Common Stock (calculated based on the assumption that all Convertible Securities, whether or not presently exercisable or convertible, have been fully exercised or converted (as the case may be) taking account of any limitations on exercise or conversion (including “blockers”) contained therein without conceding that such identified Person is a 10% stockholder for purposes of federal securities laws).

(iii) Existing Securities; Obligations. Except as set forth on Schedule 3(r)(iii): (A) none of the Company’s or any Subsidiary’s shares, interests or capital stock is subject to preemptive rights or any other similar rights or Liens suffered or permitted by the Company or any Subsidiary; (B) other than awards to employees, directors, and consultants of the Company under equity incentive plans adopted by the Board of Directors of the Company and as described in the SEC Documents, there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any shares, interests or capital stock of the Company or any of its Subsidiaries, or contracts, commitments, understandings or arrangements by which the Company or any of its Subsidiaries is or may become bound to issue additional shares, interests or capital stock of the Company or any of its Subsidiaries or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any shares,

interests or capital stock of the Company or any of its Subsidiaries; (C) except as described in the SEC Documents, there are no agreements or arrangements under which the Company or any of its Subsidiaries is obligated to register the sale of any of their securities under the 1933 Act; (D) there are no outstanding securities or instruments of the Company or any of its Subsidiaries which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any of its Subsidiaries is or may become bound to redeem a security of the Company or any of its Subsidiaries; (E) there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities; and (F) neither the Company nor any of its Subsidiaries has any stock appreciation rights or “phantom stock” plans or agreements or any similar plan or agreement, other than stock appreciation rights or “phantom stock” awards that may be issuable under the Company’s incentive compensation plans.

(iv) Organizational Documents. The Company has made available to the Buyers true, correct and complete copies of the Company’s Amended and Restated Certificate of Incorporation, as amended and as in effect on the date hereof and the Closing Date (the “**Certificate of Incorporation**”), and the Company’s Amended and Restated Bylaws, as amended and as in effect on the date hereof and the Closing Date (the “**Bylaws**”).

(s) Indebtedness and Other Contracts. Except as set forth on Schedule 3(s), neither the Company nor any of its Subsidiaries (i) has any material outstanding debt securities, notes, credit agreements, credit facilities or other agreements, documents or instruments evidencing Indebtedness of the Company or any of its Subsidiaries or by which the Company or any of its Subsidiaries is or may become bound; (ii) has any Liens securing any obligations in any amount filed against the Company or Production LLC or with respect to any of their respective assets (other than customary Liens on operated assets by the Company or its Subsidiaries in favor of Production LLC or its Subsidiaries as set forth on Schedule 3(s)); or (iii) is in violation of any term of, or in default under, any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect. Neither the Company nor any of its Subsidiaries have any liabilities or obligations required to be disclosed in the SEC Documents which are not so disclosed in the SEC Documents, other than those incurred in the ordinary course of the Company’s or its Subsidiaries’ respective businesses consistent with past practices and which, individually or in the aggregate, do not or would not reasonably be expected to have a Material Adverse Effect. For purposes of this Agreement: (x) “**Indebtedness**” of any Person means, without duplication, (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, “capital leases” in accordance with GAAP excluding any change to lease accounting rules from those in effect pursuant to Financial Accounting Standards Board Accounting Standards Codification 840 (Leases) and other related lease accounting guidance as in effect on the date hereof) (other than trade payables entered into in the ordinary course of business consistent with past practice), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all indebtedness referred to in clauses (A) through (E) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in any property or

assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (G) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (F) above (excluding in each case minimum volume commitments entered into in the ordinary course of business); and (y) “**Contingent Obligation**” means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(t) Litigation. There is no material action, suit, arbitration, proceeding, inquiry or investigation before or by the Principal Market, any court, public board, other Governmental Entity, self-regulatory organization or body pending or, to the knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries, the Common Stock or any of the Company’s or its Subsidiaries’ officers or directors, whether of a civil or criminal nature or otherwise, in their capacities as such. To the knowledge of the Company, no director, officer or employee of the Company or any of its Subsidiaries has willfully violated 18 U.S.C. §1519 or engaged in spoliation in reasonable anticipation of litigation. Without limitation of the foregoing, to the knowledge of the Company, there is not pending, contemplated or anticipated, any inquiry or investigation by the SEC involving the Company, any of its Subsidiaries or any current director or officer of the Company or any of its Subsidiaries. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company under the 1933 Act or the 1934 Act. Neither the Company nor any of its Subsidiaries is subject to any order, writ, judgment, injunction, decree, determination or award of any Governmental Entity that names the Company or any of its Subsidiaries and, to the Company’s knowledge, neither the Company nor any of its Subsidiaries is subject to any other order, writ, judgment, injunction, decree, determination or award of any Governmental Entity that would reasonably be expected to have a Material Adverse Effect.

(u) Insurance. The Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company and its Subsidiaries are engaged. Neither the Company nor any of its Subsidiaries has been refused any insurance coverage sought or applied for, and neither the Company nor any of its Subsidiaries has any reason to believe that it will be unable to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(v) Employee Relations. Neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement or employs any member of a union. Except as set forth in Schedule 3(v), no executive officer (as defined in Rule 501(f) promulgated under the 1933 Act) of the Company or any of its Subsidiaries has notified the Company or any such Subsidiary that such officer intends to leave the Company or any such Subsidiary or otherwise terminate such officer’s employment with the Company or any such Subsidiary. To the knowledge of the Company, (i) no executive officer of the Company or any of its Subsidiaries is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and (ii) the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in material

compliance with all applicable federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(w) Title. Each of the Company and its Subsidiaries holds good title to, or a valid leasehold interest in, all real property (other than the Oil and Gas Interests), facilities or other interests in real property owned or held under lease by the Company or any of its Subsidiaries that is material to the business of the Company and its Subsidiaries, taken as a whole (the “**Real Property**”). The Company and its Subsidiaries have valid and defensible title, in accordance with customary industry standards for companies of comparable size, to substantially all of their respective interests in natural gas and oil properties leased or owned by them (the “**Oil and Gas Interests**”). The Oil and Gas Interests on **Exhibit I** represent a substantial and material portion of the Company’s Oil and Gas Interests. Since the date of the reserve report included in the Annual Report, the Company has not conveyed or assigned rights or interests in the Oil and Gas Interests to an extent that would materially and adversely affect the value of the Oil and Gas Interests in the aggregate. The Real Property and the Oil and Gas Interests are free and clear of all Liens and are not subject to any rights of way, building use restrictions, exceptions, variances, reservations, or limitations of any nature except for (i) Liens for current taxes not yet due or being contested in good faith by appropriate procedures, (ii) zoning laws and other land use restrictions that do not impair the present or anticipated use of the property subject thereto, (iii) in the case of the Oil and Gas Interests, joint operating and other agreements and arrangements customary in the oil and gas industry, (iv) those that are not likely, individually or in the aggregate, to result in a Material Adverse Effect and (v) other Permitted Liens. Any Real Property held under lease by the Company or any of its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere in any material respect with the use made and proposed to be made of such property and buildings by the Company or any of its Subsidiaries.

(x) Fixtures and Equipment. Each of the Company and its Subsidiaries (as applicable) has good title to, or a valid leasehold interest in, the tangible personal property, equipment, improvements, fixtures, and other personal property and appurtenances that are used by the Company or any of its Subsidiaries in connection with the conduct of their respective businesses as currently conducted and that are material to the business of the Company and its Subsidiaries, taken as a whole (the “**Fixtures and Equipment**”). The Fixtures and Equipment are structurally sound, are in good operating condition and repair, are adequate for the uses to which they are being put, are not in need of maintenance or repairs except for ordinary, routine maintenance and repairs and are sufficient for the conduct of the Company’s and/or its Subsidiaries’ businesses (as applicable) in the manner as currently conducted. Except as set forth on Schedule 3(x), each of the Company and its Subsidiaries owns all of its Fixtures and Equipment free and clear of all Liens except for (i) Liens for current taxes not yet due (ii) zoning laws and other land use restrictions that do not impair the present or anticipated use of the property subject thereto, (iii) those that would not be expected, individually or in the aggregate, to have a Material Adverse Effect and (iii) other Permitted Liens (as defined in the Indenture).

(y) Intellectual Property Rights. The Company and its Subsidiaries own or possess adequate rights or licenses to use all material trademarks, trade names, service marks, service mark registrations, service names, original works of authorship, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights and all applications and registrations therefor that are used by the Company or any of its Subsidiaries in connection with the conduct of their respective businesses as currently conducted (“**Intellectual Property Rights**”). The Company does not have any knowledge of any material infringement by the Company or its Subsidiaries of Intellectual Property Rights of

others. There is no claim, action or proceeding being made or brought, or to the knowledge of the Company or any of its Subsidiaries, being threatened, against the Company or any of its Subsidiaries regarding its Intellectual Property Rights, except where such claim, action or proceeding is not reasonably likely to result in a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received any written notice alleging any such infringement or claim, action or proceeding.

(z) Environmental Laws.

(i) The Company and its Subsidiaries (A) are in compliance with any and all Environmental Laws (as defined below), (B) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (C) are in compliance with all terms and conditions of any such permit, license or approval where, except in each of the foregoing clauses (A), (B) and (C), where the failure to so comply or to have such permits, licenses or other approvals would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The representations and warranties set forth in this Section 3(z) are the Company's sole and exclusive representations and warranties regarding environmental matters. The term "**Environmental Laws**" means all applicable federal, state, local or foreign laws or regulations relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous materials, substances or wastes (collectively, "**Hazardous Materials**") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or exposure to, Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(ii) No Hazardous Materials:

(A) to the Company's knowledge, have been disposed of or otherwise released from any Real Property of the Company or any of its Subsidiaries in material violation of any Environmental Laws; or

(B) to the Company's knowledge, are present on, over, beneath, in or upon any Real Property or any portion thereof in quantities that would constitute a material violation of any Environmental Laws or in quantities, a manner or location that would reasonably be expected to require remedial action pursuant to any Environmental Laws. No prior use by the Company or any of its Subsidiaries of any Real Property has occurred that violates any Environmental Laws, which violation would have a Material Adverse Effect on the business of the Company or any of its Subsidiaries.

(iii) Except as set forth on Schedule 3(z)(iii), to the Company's knowledge, neither the Company nor any of its Subsidiaries knows of any other person who or entity which has stored, treated, recycled, disposed of or otherwise located on any Real Property any Hazardous Materials, including, without limitation, such substances as asbestos and polychlorinated biphenyls, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(iv) To the knowledge of the Company, none of the Real Property is on any federal or state "Superfund" list or Comprehensive Environmental Response,

Compensation and Liability Information System (“**CERCLIS**”) list or any state environmental agency list of sites under consideration for CERCLIS, nor subject to any environmental related Liens.

(v) Neither the Company nor its Subsidiaries is subject to any pending or, to the knowledge of the Company and its Subsidiaries, threatened claim or proceeding under any Environmental Laws, except for any claims or proceeding that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(aa) Taxes. The Company and each of its Subsidiaries (i) has timely made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject through the date of this Agreement or have requested extensions thereof (except where the failure to file would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect) and (ii) has timely paid all taxes and other governmental assessments and charges that are material in amount, shown to be due on such returns, reports and declarations, except those being contested in good faith and for which reserves required by GAAP have been created in the financial statements of the Company or for cases in which the failure to pay would not have a Material Adverse Effect. There is no tax deficiency that has been determined adversely to the Company or any of its Subsidiaries which has had a Material Adverse Effect, nor does the Company or its Subsidiaries have any knowledge or written notice of any tax deficiency which would reasonably be expected to be determined adversely to the Company or its Subsidiaries and which would reasonably be expected to have a Material Adverse Effect.

(bb) Internal Accounting and Disclosure Controls. The Company and its Subsidiaries maintain internal controls over financial reporting (as such term is defined in Rule 13a-15(f) under the 1934 Act) that are effective to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including that (i) transactions are executed in accordance with management’s general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management’s general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the 1934 Act) that are effective in ensuring that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC, including, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is accumulated and communicated to the Company’s management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure. Since the filing of the Annual Report, neither the Company nor any of its Subsidiaries has received any written notice or correspondence from any accountant, Governmental Entity or other Person relating to any potential material weakness or significant deficiency in any part of the internal controls over financial reporting of the Company or any of its Subsidiaries.

(cc) Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company or any of its Subsidiaries and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Company in its 1934 Act filings and is not so disclosed or that otherwise would be reasonably likely to have a Material Adverse Effect.

(dd) Investment Company Status. The Company is not, and upon consummation of the sale of the Securities and the application of the proceeds thereof, will not be, an “investment company,” or a company controlled by an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(ee) Acknowledgement Regarding Buyers’ Trading Activity. It is understood and acknowledged by the Company that (i) following the public disclosure of the transactions contemplated by the Transaction Documents, in the 8-K Filing (as defined below), none of the Buyers have been asked by the Company or any of its Subsidiaries to agree, nor has any Buyer agreed with the Company or any of its Subsidiaries, to desist from effecting any transactions in or with respect to (including, without limitation, purchasing or selling, long and/or short) any securities of the Company, or “derivative” securities based on securities issued by the Company or to hold any of the Securities for any specified term; (ii) any Buyer, and counterparties in “derivative” transactions to which any such Buyer is a party, directly or indirectly, presently may have a “short” position in the Common Stock which was established prior to (but not after) such Buyer’s knowledge of the transactions contemplated by the Transaction Documents; (iii) each Buyer shall not be deemed to have any affiliation with or control over any arm’s length counterparty in any “derivative” transaction; and (iv) each Buyer may rely on the Company’s obligation to timely deliver shares of Common Stock pursuant to the Notes as and when required pursuant to the Transaction Documents for purposes of effecting trading in the Common Stock of the Company. The Company further understands and acknowledges that one or more Buyers may have engaged prior to the date hereof, and may after the date hereof following the public disclosure of the transactions contemplated by the Transaction Documents pursuant to the 8-K Filing, in hedging and/or trading activities (including, without limitation, the location and/or reservation of borrowable shares of Common Stock) at various times prior to or during the period that the Securities are outstanding, including, without limitation, during the periods that the value and/or number of the Note Shares deliverable with respect to the Securities are being determined, and such hedging and/or trading activities (including, without limitation, the location and/or reservation of borrowable shares of Common Stock), if any, can reduce the value of the existing stockholders’ equity interest in the Company both at and after the time the hedging and/or trading activities are being conducted. The Company acknowledges that such aforementioned hedging and/or trading activities do not constitute a breach of this Agreement, the Notes or any other Transaction Document or any of the documents executed in connection herewith or therewith.

(ff) Manipulation of Price. Neither the Company nor any of its Subsidiaries has, and, to the knowledge of the Company, no Person acting on their behalf has, directly or indirectly, (i) taken any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company or any of its Subsidiaries to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company or any of its Subsidiaries during the period in which the Transaction Documents were being negotiated or (iv) since January 1, 2022, paid or agreed to pay any Person for research services with respect to any securities of the Company or any of its Subsidiaries.

(gg) [Reserved].

(hh) Transfer Taxes. All stock transfer or other taxes (other than income or similar taxes) which are required to be paid in connection with the issuance, sale and transfer of the Securities to be sold to each Buyer hereunder will be, or will have been, fully paid or provided for by the Company, and all laws imposing such taxes will be or will have been complied with; provided that the Company shall not be required to pay any tax that may be payable in respect of

any transfer involved in the issuance and delivery of any Note Shares pursuant to the terms of the Notes, in a name other than that of the Buyer of such Notes, and the Company shall not be required to issue or deliver such Note Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

(ii) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries is subject to the Bank Holding Company Act of 1956, as amended (the “**BHCA**”) and to regulation by the Board of Governors of the Federal Reserve System (the “**Federal Reserve**”). Neither the Company nor any of its Subsidiaries owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent (25%) or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(jj) Shell Company Status. The Company is not, and has never been, an issuer identified in, or subject to, Rule 144(i).

(kk) Illegal or Unauthorized Payments; Political Contributions. Neither the Company nor any of its Subsidiaries nor, to the best of the Company’s knowledge (after reasonable inquiry of its officers and directors), any of the officers, directors, employees, agents or other representatives of the Company or any of its Subsidiaries or affiliates, has, directly or indirectly, made or authorized any payment, contribution or gift of money, property, or services, whether or not in contravention of applicable law, (i) as a kickback or bribe to any Person or (ii) to any political organization, or the holder of or any aspirant to any elective or appointive public office to improperly influence official action or secure an improper advantage. No representation is made with respect to personal political contributions not involving the direct or indirect use of funds of the Company or any of its Subsidiaries.

(ll) Sanctions. None of the Company, any of its Subsidiaries or any director or officer, or, to the knowledge of the Company and its Subsidiaries, any employee, agent or other person acting for or on behalf of the foregoing is the subject or target of any economic or financial sanctions imposed, administered or enforced by the United States (including the U.S. Department of the Treasury Office of Foreign Assets Control and the U.S. Department of State) or other relevant sanctions authority (collectively, “**Sanctions**” and each such Person, a “**Sanctioned Person**”). The operations of the Company and its Subsidiaries are, and have been conducted within the past five (5) years, in compliance with applicable Sanctions. Neither the Company nor any of its Subsidiaries will, directly or, to their knowledge, indirectly, use any part of the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund or facilitate any dealings or transactions with, involving or for the benefit of any Sanctioned Person, or otherwise in any manner that would constitute or give rise to a violation of any Sanctions by any Person (including any Person participating in the offering, whether as buyer, underwriter, advisor, investor or otherwise).

(mm) Management. Since February 10, 2017, no current officer or director of the Company, to the knowledge of the Company, has been the subject of:

(i) a petition under U.S. federal bankruptcy laws or any state insolvency or moratorium law or the appointment by a court of a receiver, fiscal agent or similar officer for such Person, or any partnership in which such person was a general partner at or within two (2) years before the filing of such petition or such appointment, or any

corporation or business association of which such person was an executive officer at or within two (2) years before the time of the filing of such petition or such appointment, except as set forth on Schedule 3(mm)(i);

(ii) a conviction in a criminal proceeding or a named subject of a pending criminal proceeding (excluding traffic violations that do not relate to driving while intoxicated or driving under the influence and other minor offenses);

(iii) any order, judgment or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction, permanently or temporarily enjoining any such person from, or otherwise limiting, the following activities:

(1) Acting as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, floor broker, leverage transaction merchant, any other person regulated by the United States Commodity Futures Trading Commission or an associated person of any of the foregoing, or as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

(2) Engaging in any particular type of business practice; or

(3) Engaging in any activity in connection with the purchase or sale of any security or commodity or in connection with any violation of U.S. federal or state securities laws or U.S. federal commodities laws;

(iv) any order, judgment or decree, not subsequently reversed, suspended or vacated, of any U.S. federal or state authority barring, suspending or otherwise limiting for more than sixty (60) days the right of any such person to engage in any activity described in the preceding sub paragraph, or to be associated with persons engaged in any such activity;

(v) a finding by a court of competent jurisdiction in a civil action or by the SEC or other authority to have violated any U.S. federal or state securities law, regulation or decree and the judgment in such civil action or finding by the SEC or any other authority has not been subsequently reversed, suspended or vacated; or

(vi) a finding by a court of competent jurisdiction in a civil action or by the Commodity Futures Trading Commission to have violated any U.S. federal commodities law, and the judgment in such civil action or finding by the Commodity Futures Trading Commission has not been subsequently reversed, suspended or vacated.

(nn) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in material compliance with the USA Patriot Act of 2001 and all other applicable U.S. and non-U.S. anti-money laundering laws and regulations, including, without limitation, the laws, regulations and Executive Orders and sanctions programs administered by the U.S. Office of Foreign Assets Control, including, but not limited, to (i) Executive Order 13224 of September 23, 2001 entitled, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (66 Fed. Reg. 49079 (2001)); and (ii) any regulations contained in 31 CFR, Subtitle B, Chapter V.

(oo) Stock Option Plans. Each stock option granted by the Company was granted (i) in accordance with the terms of the applicable stock option plan of the Company and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. To the Company's knowledge, no stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no policy or practice of the Company to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(pp) Cybersecurity. The Company and its Subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases used or owned by, or leased or licensed to, the Company or any of its Subsidiaries (collectively, "**IT Systems**") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its Subsidiaries as currently conducted, and are, to the Company's knowledge, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its Subsidiaries have implemented and maintained commercially reasonable physical, technical and administrative controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data, such material confidential information, including Personal Data (as defined below), used in connection with their businesses. "**Personal Data**" means (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) "personal data" as defined by the European Union General Data Protection Regulation ("**GDPR**") (EU 2016/679); (iv) any information which would qualify as "protected health information" under the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (collectively, "**HIPAA**"); and (v) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person's health or sexual orientation. To the Company's knowledge, in the three (3) years prior to the date hereof, there have been no material breaches, violations, outages or unauthorized uses of or accesses to the IT Systems and the Personal Data in the possession or control of the Company, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company and its Subsidiaries are presently in material compliance with all Privacy Laws (as defined below), internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data in the possession or control of the Company from unauthorized use, access, misappropriation or modification.

(qq) Compliance with Data Privacy Laws. The Company and its Subsidiaries are, and during the two (2) years prior hereto were, in material compliance with all applicable state and federal data privacy and security laws and regulations, including without limitation HIPAA, and the Company and its Subsidiaries have taken commercially reasonable actions to prepare to comply with, and since May 25, 2018, have been and currently are in material compliance with, the GDPR (EU 2016/679) (collectively, the "**Privacy Laws**"). To ensure compliance with the Privacy Laws, the Company and its Subsidiaries have in place, comply in all material respects with, and take appropriate steps reasonably designed to ensure compliance in all material respects with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling, and analysis of Personal Data (the "**Policies**"). The

Company and its Subsidiaries have at all times made all disclosures to users or customers required by Privacy Laws, and none of such disclosures made or contained in any Policy have, to the knowledge of the Company, been inaccurate or in violation of any Privacy Laws in any material respect. The Company further certifies that neither it nor any Subsidiary: (i) has received written notice of any actual or potential material liability under or relating to, or actual or potential material violation of, any of the Privacy Laws, and has no knowledge of any event or condition that would reasonably be expected to result in any such notice; (ii) is currently conducting or paying for, in whole or in part, any investigation, remediation, or other corrective action pursuant to any material violation of Privacy Law; or (iii) is a party to any order, decree, or agreement that imposes any material obligation or liability relating to any violation of Privacy Law.

(rr) No Disqualification Event. With respect to Securities to be offered and sold hereunder in reliance on Rule 506(b) under the 1933 Act (“**Regulation D Securities**”), none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering contemplated hereby, or, to the Company’s knowledge, any beneficial owner of 20% or more of the Company’s outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the 1933 Act) connected with the Company in any capacity at the time of sale (each, an “**Issuer Covered Person**” and, together, “**Issuer Covered Persons**”) is subject to any Disqualification Event, except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Buyers a copy of any disclosures provided thereunder.

(ss) Other Covered Persons. The Company is not aware of any Person that has been or will be paid (directly or indirectly) remuneration for solicitation of Buyers or potential purchasers in connection with the sale of any Regulation D Securities.

(tt) Margin Stock. The application of the proceeds received by the Company from the issuance, sale and delivery of the Notes as described in the Transaction Documents will not violate Regulation T, U or X of the Board of Governors of the Federal Reserve system or any other regulation of such Board of Governors.

(uu) No Additional Agreements. The Company does not have any agreement or understanding with any Buyer with respect to the transactions contemplated by the Transaction Documents other than as specified in the Transaction Documents.

(vv) Material Non-Public Information. The Company confirms that neither it nor any other Person acting on its behalf has provided any of the Buyers or their counsel with any information that constitutes or would reasonably be expected to constitute material, non-public information concerning the Company or any of its Subsidiaries, other than the existence of the transactions contemplated by this Agreement and the other Transaction Documents. The Company understands and confirms that each of the Buyers has relied on and will rely on the foregoing representations in effecting transactions in securities of the Company. The Company acknowledges and agrees that no Buyer makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 2.

(ww) No Other Representations or Warranties. Each Buyer has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) or assets of the Company, and acknowledges that it has been

provided adequate access to the personnel, properties, assets, premises, books and records and other documents and data of the Company for such purpose. Each Buyer acknowledges and agrees that (i) in making its decision to enter into this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby, each Buyer has relied solely upon its own investigation and the express representations and warranties of the Company set forth in this Agreement and, as applicable, the other Transaction Documents and (ii) neither the Company nor any other Person has made any representation or warranty as to the Company or this Agreement, except as expressly set forth in this Agreement or, as applicable, the other Transaction Documents.

4. COVENANTS.

(a) Reasonable Best Efforts. Each Buyer shall use its reasonable best efforts to timely satisfy each of the covenants hereunder and conditions to be satisfied by it as provided in Section 6 of this Agreement. The Company shall use its reasonable best efforts to timely satisfy each of the covenants hereunder and conditions to be satisfied by it as provided in Section 7 of this Agreement.

(b) Blue Sky. The Company shall, on or before the Closing Date, take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to, qualify the applicable Securities for sale to the Buyers at the Closing pursuant to this Agreement under applicable securities or “Blue Sky” laws of the states of the United States (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Buyers on or prior to the Closing Date. Without limiting any other obligation of the Company under this Agreement, the Company shall timely make all filings and reports relating to the offer and sale of the Securities required under all applicable securities laws (including, without limitation, all applicable federal securities laws and all applicable “Blue Sky” laws), and the Company shall comply with all applicable foreign, federal, state and local laws, statutes, rules, regulations and the like relating to the offering and sale of the Securities to the Buyers. Each Buyer shall reasonably cooperate with the Company at its request in connection with filings, reports and other matters contemplated by such laws, statutes, rules and regulations.

(c) Reporting Status. Until the earlier of (i) the date upon which the Buyers shall have sold all of the Securities and (ii) the repayment in full of the Notes (or repayment in full of the Non-Convertible Notes and conversion in full of the Convertible Notes) (the “**Reporting Period**”), the Company shall timely file all reports required to be filed with the SEC pursuant to the 1934 Act (reports filed in compliance with the time period specified in Rule 12b-25 promulgated under the 1934 Act shall be considered timely for this purpose), and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would no longer require or otherwise permit such termination, except in each case, in connection with or as a result of a Fundamental Change permitted by the Indenture (as defined in the Indenture).

(d) Use of Proceeds. The Company will use the net proceeds from the sale of the Securities to redeem the Prior Note pursuant to the terms of the Redemption Letter Agreement.

(e) Financial Information. The Company agrees to send the following to each Buyer during the Reporting Period (i) unless the following are filed with the SEC through EDGAR and are available to the public through the EDGAR system, within one (1) Business Day after the filing thereof with the SEC, a copy of its Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q, any Current Reports on Form 8-K and any registration statements (other than on Form S-8 or Form S-4) or amendments filed pursuant to the 1933 Act, (ii) unless the following are either filed with the SEC through EDGAR or are otherwise widely disseminated via a

recognized news release service (such as PR Newswire), on the same day as the release thereof, email copies of all press releases issued by the Company or any of its Subsidiaries and (iii) unless the following are filed with the SEC through EDGAR or posted on the Company's website, copies of any notices and other information made available or given to the stockholders of the Company generally, substantially contemporaneously with the making available or giving thereof to the stockholders. All documents referred to in this Section 4(e) will be deemed to be delivered on the date they are filed through EDGAR, or if such documents are posted on the Company's website, but not filed through EDGAR in accordance with clause (iii) of the prior sentence, the date upon which such documents are posted on the Company's website.

(f) Listing. The Company shall promptly secure the listing or designation for quotation (as the case may be) of all of the Note Shares upon the Principal Market and shall use its reasonable best efforts to maintain such listing or designation for quotation (as the case may be) of all Note Shares from time to time issuable under the terms of the Transaction Documents on the Principal Market or another Eligible Market (as defined below). The Company shall maintain the Common Stock's listing or authorization for quotation (as the case may be) on the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market or the Nasdaq Global Select Market (each, an "**Eligible Market**"). Neither the Company nor any of its Subsidiaries shall take any action which could be reasonably expected to result in the delisting or suspension of the Common Stock on an Eligible Market except in connection with or as a result of a Fundamental Change permitted under the Indenture. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 4(f).

(g) Fees. The Company shall pay for the reasonable and documented out-of-pocket due diligence and legal fees and expenses incurred by the Buyers in connection with the structuring, documentation, negotiation, and closing of the transactions contemplated by the Transaction Documents (and the enforcement thereof by the Buyers), including, without limitation, all reasonable and documented out-of-pocket consultant fees, all reasonable and documented out-of-pocket legal fees and disbursements of Latham & Watkins LLP, counsel to the Buyers, and reasonable and documented out-of-pocket fees and expenses incurred by the Buyers in connection with any regulatory filings in connection therewith (the "**Transaction Expenses**") and such Transaction Expenses, to the extent they have been invoiced at least one (1) Business Day prior to Closing and not already been paid or reimbursed to the Buyers, may be withheld by the Buyers from the Purchase Price at the Closing. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, transfer agent fees, The Depository Trust Company ("**DTC**") fees or broker's commissions (other than for Persons engaged by any Buyer) relating to or arising out of the transactions contemplated hereby. The Company shall pay, and hold each Buyer harmless against, any liability, loss or expense (including, without limitation, reasonable attorneys' fees and reasonable and documented out-of-pocket expenses) arising in connection with any claim relating to any such payment. Except as otherwise set forth in the Transaction Documents, each party to this Agreement shall bear its own expenses in connection with the sale of the Securities to the Buyers.

(h) Pledge of Securities. Notwithstanding anything to the contrary contained in this Agreement, the Company acknowledges and agrees that the Securities may be pledged by a Buyer in connection with a bona fide margin agreement or other loan or financing arrangement that is secured by the Securities. The pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and no Buyer effecting a pledge of Securities shall be required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or any other Transaction Document including, without limitation, Section 2(g) hereof; provided that a Buyer and its pledgee shall be required to comply with the provisions of Section 2(g); provided, further, that any foreclosure upon any

Securities in connection with such a pledge will be considered a transfer that requires compliance with the applicable terms of this Agreement and all applicable securities laws. The Company hereby agrees to execute and deliver such documentation as a pledgee of the Securities may reasonably request in connection with a pledge of the Securities to such pledgee by a Buyer.

(i) Disclosure of Transactions and Other Material Information.

(i) Disclosure of Transaction. No later than 9:15 a.m., New York time, on the date of this Agreement (or, if this Agreement is executed after such time, no later than 9:15 a.m. the following day), the Company shall file a Current Report on Form 8-K or a Quarterly Report on Form 10-Q reasonably acceptable to the Buyers describing all the material terms of the transactions contemplated by the Transaction Documents in the form required by the 1934 Act and attaching all the material Transaction Documents (the “**8-K Filing**”). From and after the 8-K Filing, the Company shall have disclosed all material, non-public information (if any) provided to any of the Buyers by the Company or any of its Subsidiaries or any of their respective officers, directors, employees or agents. In addition, effective upon the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and any of the Buyers or any of their affiliates, on the other hand, shall have terminated and none of the Buyers will be subject to any such obligation after the 8-K Filing.

(ii) Limitations on Disclosure. Other than as required under the Transaction Documents (but subject to any other disclosure obligations of the Company with respect thereto), the Company shall not, and the Company shall cause each of its Subsidiaries and each of its and their respective officers, directors, employees and agents not to, provide any Buyer with any material, non-public information regarding the Company or any of its Subsidiaries from and after the date hereof unless prior thereto such Buyer shall have consented in writing to the receipt of such information and agreed with the Company to keep such information confidential. If any material, non-public information is required to be provided by the Company or any of its Subsidiaries to any Buyer pursuant to the Transaction Documents, the Company shall obtain each Buyer’s prior written consent prior to providing such information to such Buyer, and if any Buyer fails to provide such written consent, the Company shall not be deemed to be in breach of any of the Transaction Documents as a result of the failure to provide such information. To the extent that the Company delivers any material, non-public information to a Buyer without such Buyer’s prior written consent in breach of the foregoing sentence, the Company hereby covenants and agrees that such Buyer shall not have any duty of confidentiality with respect to, or a duty not to trade on the basis of, such material, non-public information, provided that the Buyer shall remain subject to applicable law. Subject to the foregoing, neither the Company, its Subsidiaries nor any Buyer shall issue any press releases or any other public statements (by advertisement or otherwise), submit for publication or otherwise cause or seek to publish any information with respect to the transactions contemplated hereby; provided, however, the Company shall be entitled, without the prior approval of any Buyer, to make any press release or other public disclosure with respect to such transactions (A) in substantial conformity with the 8-K Filing and (B) as is required by applicable law and regulations; provided however, that in the case of clause (B), unless specifically prohibited by applicable law or court order, the Company shall promptly notify the Buyers of the requirement to make such submission or filing and provide the Buyers with a copy thereof. Without the prior written consent of the applicable Buyer (which may be granted or withheld in such Buyer’s sole discretion), the Company shall not (and shall cause each of its Subsidiaries and affiliates to not)

disclose the name of such Buyer in any filing, announcement, release, publication or otherwise, except in the 8-K Filing and as otherwise may be required by applicable law or regulations. Notwithstanding anything contained in this Agreement to the contrary and without implication that the contrary would otherwise be true, the Company expressly acknowledges and agrees that no Buyer shall have (unless expressly agreed to by a particular Buyer after the date hereof in a written definitive and binding agreement executed by the Company and such particular Buyer (it being understood and agreed that no Buyer may bind any other Buyer with respect thereto)), any duty of confidentiality with respect to, or a duty not to trade on the basis of, any material, non-public information regarding the Company or any of its Subsidiaries.

(j) Additional Issuance of Securities.

(i) The Company agrees that for the period commencing on the date hereof and ending on the date immediately following the thirtieth (30th) calendar day after the Closing Date (the “**Restricted Period**”), neither the Company nor any of its Subsidiaries shall, directly or indirectly issue, offer, sell, grant any option or right to purchase, or otherwise dispose of (or register or amend any outstanding registration statements or file any shelf registration statements or announce any issuance, offer, sale, grant of any option or right to purchase or other disposition of) any equity security or any equity-linked or related security (including, without limitation, any “equity security” (as that term is defined under Rule 405 promulgated under the 1933 Act), any Convertible Securities, any preferred stock or any purchase rights). Notwithstanding the foregoing, this Section 4(j)(i) shall not apply during the Restricted Period in respect of (A) the issuance, offer, sale, grant or other disposition of any securities in connection with Project Level Financing, (B) the issuance of shares of Common Stock, Options or Convertible Securities pursuant to existing agreements entered into prior to the date hereof (without giving effect to any amendment thereto made after the date hereof), including issuances pursuant to Options or Convertible Securities outstanding as of the date hereof (without giving effect to any amendment thereto made after the date hereof), an ATM Agreement (as defined below) or any Approved Stock Plan as in effect as of the date hereof (without giving effect to any amendment thereto made after the date hereof) or grants or awards made under an Approved Stock Plan, (C) the issuances of Note Shares or (D) the filing of the Prospectus Supplement. “**Project Level Financing**” means all debt (including mezzanine and holdco financings and whether secured or unsecured), equity (including equity-linked), mezzanine financing(s) of any kind entered into by Driftwood LNG Holdings LLC or Driftwood Pipeline LLC or any of their Subsidiaries to the extent that the proceeds of any such financing will be used for the development, construction, financing, ownership, operation or maintenance of the Driftwood LNG Project. An “**Approved Stock Plan**” means any security-based compensation plan which has been approved by the Board of Directors of the Company prior to the date hereof, or any security-based compensation plan which is approved by the Board of Directors or the compensation committee thereof and the stockholders of the Company after the date hereof, pursuant to which shares of Common Stock, options to purchase Common Stock and other incentive equity awards may be issued to any employee, officer, consultant or director for services provided to the Company in their capacity as such, and not for the purpose of raising capital, pursuant to any award agreement, consulting agreement, advisory agreement or independent contractor agreement approved by the Board of Directors or the compensation committee thereof.

(ii) So long as any Notes remain outstanding, the Company and each Subsidiary shall be prohibited from effecting, or entering into an agreement directly or indirectly to effect a Variable Rate Transaction. “**Variable Rate Transaction**” means a

transaction in which the Company or any Subsidiary (i) issues or sells any Convertible Securities either (A) at a conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such Convertible Securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such Convertible Securities or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock, other than pursuant to a customary “weighted average” anti-dilution provision or customary adjustments for stock splits, stock dividends, stock combinations, recapitalizations and similar events or (ii) enters into any agreement (including, without limitation, an equity line of credit) whereby the Company or any Subsidiary may sell securities at a future determined price (other than standard and customary “preemptive” or “participation” rights); *provided* that none of the following shall be considered a “Variable Rate Transaction”: (y) the issuance and sale of shares of Common Stock pursuant to the Distribution Agency Agreement, dated December 30, 2022, between the Company and T.R. Winston & Company, LLC, or any similar agreement providing for at-the-market sales of Common Stock through a registered broker-dealer, but, for the avoidance of doubt, not an equity line of credit (collectively, the “**ATM Agreements**”) or (z) any Project Level Financing in which the conversion price of Convertible Securities included in such financing cannot be set and the security cannot be convertible until after the Notes cease to be outstanding through conversion, redemption or otherwise.

(iii) So long as any Notes remain outstanding, the Company will not, without the prior written consent of the Required Holders (as defined below), issue any Notes (other than to the Buyers as contemplated hereby) and the Company shall not issue any other securities that would cause a breach or default under the Notes.

(iv) Each Buyer shall be entitled to obtain injunctive relief against the Company and its Subsidiaries to preclude any issuance prohibited by this Section 4(j), which remedy shall be in addition to any right to collect damages.

(k) General Solicitation. None of the Company, any of its affiliates (as defined in Rule 501(b) under the 1933 Act) or any person acting on behalf of the Company or such affiliate will solicit any offer to buy or offer to sell the Notes by means of any form of general solicitation or general advertising within the meaning of Regulation D, including: (i) any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio; and (ii) any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(l) Regulation M. The Company will not take any action prohibited by Regulation M under the 1934 Act, in connection with the distribution of the Securities contemplated hereby.

(m) Closing Documents. After the Closing Date, the Company agrees to deliver, or cause to be delivered, to each Buyer and Latham & Watkins LLP a complete closing set of the respective executed Transaction Documents, Securities and any other document required to be delivered to any party pursuant to Section 7 hereof or otherwise (which may be in photocopies or pdf versions of executed copies).

(n) Taxes.

(i) On the date hereof and as reasonably requested thereafter by the Company or its transfer agent and any subsequent transfer agent (as applicable) (the “**Transfer**”

Agent”), each Buyer (or the person that will be treated as owning the Purchased Security for U.S. federal income tax purposes) shall provide the Company and the Transfer Agent with an Internal Revenue Service Form W-9.

(ii) Upon assignment of a Note by a Buyer pursuant to Section 9(g) (including by means of a sale or other exchange of a Note by a Buyer) and as reasonably requested by the Company thereafter, each assignee (or, in each case, the person that will be treated as owning the Purchased Security for U.S. federal income tax purposes) shall provide the Company and the Transfer Agent with an Internal Revenue Service Form W-9 or the applicable Internal Revenue Service Form W-8 and any accompanying forms as will permit the Company to determine the rate of withholding applicable to payments pursuant to the Note.

(iii) The Company (and any person acting on behalf of the Company, including the Transfer Agent) shall have the right to deduct and withhold any taxes that it is required to deduct and withhold under applicable law from any payments to be made pursuant to the Notes. To the extent that amounts are so withheld and paid by the Company (or any person acting on behalf of the Company, including the Transfer Agent) to the applicable governmental authority, such withheld amounts shall be treated for all purposes of this Agreement and the Notes as having been delivered and paid to the applicable Buyer or any other recipient of payment in respect of which such deduction and withholding was made. The Company and each Buyer (including any assignee of Buyer) agree to cooperate in obtaining any available exemption or reduction of such withholding, including the provision of forms pursuant to Sections 4(n)(i) and 4(n)(ii).

(o) Rule 144. The Company shall use reasonable efforts to take such actions as are within its control to cause the Note Shares to be eligible to be offered, sold or otherwise transferred by the Buyers pursuant to Rule 144 under the Securities Act, without any requirements as to volume, manner of sale, availability of current public information (whether or not then satisfied) or notice under the Securities Act and shall take such actions as may be reasonably requested by the Buyers to permit compliance with any state securities or “blue sky” law, on and after the date that is six (6) months following the Closing Date.

(p) Integration. None of the Company, any of its affiliates (as defined in Rule 501(b) under the 1933 Act), or any person acting on behalf of the Company or such affiliate will sell, offer for sale, or solicit offers to buy or otherwise negotiate in respect of any security (as defined in the 1933 Act) which will be integrated with the issuance of the Securities in a manner which would require the registration of the Securities under the 1933 Act or require stockholder approval under the rules and regulations of the Principal Market and the Company will take all action that is appropriate or necessary to assure that its offerings of other securities will not be integrated for purposes of the 1933 Act or the rules and regulations of the Principal Market, with the issuance of Securities contemplated hereby.

(q) Private Placement. Neither the Company nor any Subsidiary or affiliate thereof shall identify any Buyer as being an underwriter or potentially being an “underwriter” in any disclosure to, or filing with, the SEC, the Principal Market or any other Eligible Market. No Buyer shall be required by the Company or any Subsidiary or affiliate thereof to agree or admit that it is, or may be, acting as an “underwriter” in connection with the transactions contemplated hereby or agree to be named as an underwriter or as potentially being an underwriter in any public disclosure or filing with the SEC, the Principal Market or any other Eligible Market, nor shall any Buyer be required to make any representations to, or undertake any obligations to, the SEC, unless such designation or potential designation is required by the staff of the SEC, in connection with any registration statement filed by the Company with respect to the Securities.

Any Buyer being deemed an underwriter, or potentially to be an underwriter, by the SEC shall not relieve the Company of any obligations it has under this Agreement or any other Transaction Document.

(r) Registration Rights. The Company shall:

(i) file a prospectus supplement in substantially the form attached hereto as Exhibit G (the “**Prospectus Supplement**”) to the Company’s current registration statement on Form S-3 (File No. 333-269069) with the SEC as soon as practicable but in no event later than one Business Day (1) day after the Closing Date with respect to the Purchased Securities (the “**Filing Date**”) to register all shares of Common Stock underlying the Purchased Securities (the “**Registrable Shares**”) under the Securities Act (providing for shelf registration of such Registrable Shares under SEC Rule 415) (such registration statement and any replacement thereof, including any preliminary prospectus, preliminary prospectus supplement, final prospectus, final prospectus supplement, exhibit or amendment included in or relating to such registration statement being the “**Resale Registration Statement**”);

(ii) promptly prepare and file with the SEC such amendments and supplements to each such Resale Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Resale Registration Statement continuously effective and free from any material misstatement or omission to state a material fact therein until termination of such obligation as provided in Section 4(u), below, subject to the Company’s right to suspend pursuant to Section 4(t), below;

(iii) not less than four (4) Business Days prior to the filing of any amendment or supplement to the Resale Registration Statement (not including any documents incorporated by reference therein), furnish via email to the Buyers copies of all such documents proposed to be filed, which documents (other than any document that is incorporated or deemed to be incorporated by reference therein) will be subject to the review of the Buyers. The Company shall reflect in each such document when so filed with the SEC such comments regarding the Buyers and the plan of distribution as the Buyers may reasonably and promptly propose no later than four (4) Business Days after the Buyers has been so furnished with copies of such documents as aforesaid;

(iv) furnish to the Buyers such number of copies of prospectuses in conformity with the requirements of the Securities Act and such other documents as the Buyers may reasonably request, in order to facilitate the public sale or other disposition of all or any of the Registrable Shares by the Buyers;

(v) file such documents as may be required of the Company for normal securities law clearance for the resale of the Registrable Shares in such states of the United States as may be reasonably requested by the Buyers and use its commercially reasonable efforts to maintain such blue sky qualifications during the period the Company is required to maintain effectiveness of each such Resale Registration Statement; provided, however, that the Company shall not be required in connection with this Section 4(r)(v) to qualify as a foreign corporation or execute a general consent to service of process in any jurisdiction in which it is not now so qualified or has not so consented;

(vi) upon notification by the SEC that a Resale Registration Statement will not be reviewed or is not subject to further review by the SEC, the Company shall within three (3) Business Days following the date of such notification request acceleration of

such Resale Registration Statement (with the requested effectiveness date to be not more than two (2) Business Days later);

(vii) upon notification by the SEC that a Resale Registration Statement has been declared effective by the SEC, the Company shall file the final prospectus under Rule 424 of the Securities Act (“**Rule 424**”) within the applicable time period prescribed by Rule 424;

(viii) advise the Buyers promptly (and in any event within two (2) Business Days thereof):

(A) of the effectiveness of a Resale Registration Statement or any post-effective amendments thereto;

(B) of any request by the SEC for amendments to a Resale Registration Statement or amendments to the prospectus or for additional information relating thereto;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of a Resale Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Registrable Shares for offering or sale in any jurisdiction, or the initiation of any proceeding for any of the preceding purposes; and;

(D) of the existence of any fact and the happening of any event that makes any statement of a material fact made in a Resale Registration Statement, the prospectus and amendment or supplement thereto, or any document incorporated by reference therein, untrue, or that requires the making of any additions to or changes in a Resale Registration Statement or the prospectus in order to make the statements therein not misleading;

(ix) cause all Registrable Shares to be listed on each securities exchange, if any, on which equity securities by the Company are then listed; and

(x) bear all expenses in connection with the procedures in paragraphs (i) through (ix) of this Section 4(r) and the registration of the Registrable Shares on each such Resale Registration Statement and the satisfaction of the blue sky laws of such states.

(s) Registration Rights Indemnification.

(i) The Company agrees to indemnify and hold harmless the Buyers and their respective affiliates, partners, members, officers, directors, agents and representatives, and each person, if any, who controls a Buyer within the meaning of Section 15 of the Securities Act or Section 20 of the 1934 Act (each, a “**Purchaser Party**” and collectively the “**Purchaser Parties**”), to the fullest extent permitted by applicable law, from and against any losses, claims, damages or liabilities (collectively, “**Losses**”) to which they may become subject (under the Securities Act or otherwise) insofar as such Losses (or actions or proceedings in respect thereof) arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in a Resale Registration Statement or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading or arise out of any failure by the Company to fulfill any undertaking included in a Resale Registration Statement and the Company

will, as incurred, reimburse the Purchaser Parties for any legal or other expenses reasonably incurred in investigating, defending or preparing to defend any such action, proceeding or claim; provided, however, that the Company shall not be liable in any such case to the extent that such Loss arises out of, or is based upon an untrue statement or omission or alleged untrue statement or omission made in a Resale Registration Statement in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Buyers specifically for use in preparation of a Resale Registration Statement; provided further, however, that the Company shall not be liable to any Purchaser Party (or any partner, member, officer, director or controlling person of a Buyer) to the extent that any such Loss is caused by an untrue statement or omission or alleged untrue statement or omission made in any preliminary prospectus if either (i) (A) the Buyers failed to send or deliver a copy of the final prospectus with or prior to, or the Buyers failed to confirm that a final prospectus was deemed to be delivered prior to (in accordance with Rule 172 of the Securities Act), the delivery of written confirmation of the sale by the Buyers to the person asserting the claim from which such Loss resulted and (B) the final prospectus corrected such untrue statement or omission, or (ii) (X) such untrue statement or omission is corrected in an amendment or supplement to the prospectus and (Y) having previously been furnished by or on behalf of the Company with copies of the prospectus as so amended or supplemented or notified by the Company that such amended or supplemented prospectus has been filed with the SEC, in accordance with Rule 172 of the Securities Act, the Buyers thereafter fails to deliver such prospectus as so amended or supplemented, with or prior to or the Buyers fails to confirm that the prospectus as so amended or supplemented was deemed to be delivered prior to (in accordance with Rule 172 of the Securities Act), the delivery of written confirmation of the sale by the Buyers to the person asserting the claim from which such Loss resulted.

(ii) The Buyers agree to indemnify and hold harmless the Company and its officers, directors, affiliates, agents and representatives and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the 1934 Act (each a “**Company Party**” and collectively the “**Company Parties**”), to the fullest extent permitted by applicable law, from and against any Losses to which the Company Parties may become subject (under the Securities Act or otherwise), insofar as such Losses (or actions or proceedings in respect thereof) arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in a Resale Registration Statement (or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in each case, on the effective date thereof), if, and only to the extent, such untrue statement or omission or alleged untrue statement or omission was made in reliance upon and in conformity with written information furnished by or on behalf of the Buyers specifically for use in preparation of a Resale Registration Statement, and the Buyers will, as incurred, reimburse each Company Party for any legal or other expenses reasonably incurred in investigating, defending or preparing to defend any such action, proceeding or claim; provided, however, that in no event shall any indemnity under this Section 4(s) be greater in amount than the dollar amount of the net proceeds received by the Buyers upon their sale of the Registrable Shares included in the Resale Registration Statement giving rise to such indemnification obligation.

(iii) Promptly after receipt by any indemnified person of a notice of a claim or the beginning of any action in respect of which indemnity is to be sought against an indemnifying person pursuant to this Section 4(s), such indemnified person shall notify the indemnifying person in writing of such claim or of the commencement of such action, and, subject to the provisions hereinafter stated, in case any such action shall be brought

against an indemnified person and such indemnifying person shall have been notified thereof, such indemnifying person shall be entitled to participate therein, and, to the extent that it shall wish, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified person. After notice from the indemnifying person to such indemnified person of its election to assume the defense thereof, such indemnifying person shall not be liable to such indemnified person for any legal expenses subsequently incurred by such indemnified person in connection with the defense thereof; provided, however, that if there exists or shall exist a conflict of interest that would make it inappropriate in the reasonable judgment of the indemnified person for the same counsel to represent both the indemnified person and such indemnifying person or any affiliate or associate thereof, the indemnified person shall be entitled to retain its own counsel at the expense of such indemnifying person; provided, further, that no indemnifying person shall be responsible for the fees and expense of more than one separate counsel for all indemnified parties. The indemnifying party shall not settle an action without the consent of the indemnified party, which consent shall not be unreasonably withheld.

(iv) If after proper notice of a claim or the commencement of any action against the indemnified party, the indemnifying party does not choose to participate, then the indemnified party shall assume the defense thereof and upon written notice by the indemnified party requesting advance payment of a stated amount for its reasonable defense costs and expenses, the indemnifying party shall advance payment for such reasonable defense costs and expenses (the “**Advance Indemnification Payment**”) to the indemnified party. In the event that the indemnified party’s actual defense costs and expenses exceed the amount of the Advance Indemnification Payment, then upon written request by the indemnified party, the indemnifying party shall reimburse the indemnified party for such difference; in the event that the Advance Indemnification Payment exceeds the indemnified party’s actual costs and expenses, the indemnified party shall promptly remit payment of such difference to the indemnifying party.

(v) If the indemnification provided for in this Section 4(s) is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any losses, claims, damages or liabilities referred to herein, the indemnifying party, in lieu of indemnifying such indemnified party thereunder, shall to the extent permitted by applicable law contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other, as well as any other relevant equitable considerations; provided, that in no event shall any contribution by an indemnifying party hereunder be greater in amount than the dollar amount of the proceeds received by such indemnifying party upon the sale of such Registrable Shares.

(t) Suspensions. The Buyers acknowledge that there may be times when the Company must suspend the use of the prospectus forming a part of a Resale Registration Statement until such time as an amendment to such Resale Registration Statement has been filed by the Company and declared effective by the SEC, or until such time as the Company has filed an appropriate report with the SEC pursuant to the Exchange Act. The Buyers hereby covenant that they will not sell any Registrable Shares pursuant to said prospectus during the period commencing at the time at which the Company gives the Buyers notice of the suspension of the use of said prospectus and ending at the time the Company gives the Buyers notice that the Buyers may thereafter effect sales pursuant to said prospectus; provided, that such suspension periods shall in no event exceed forty-five (45) days in any 12 month period or thirty (30) days in any three month period and that, in the good faith judgment of the Board of Directors, the Company would, in the absence of such delay or suspension hereunder, be required under state

or federal securities laws to disclose any corporate development, a potentially significant transaction or event involving the Company, or any negotiations, discussions, or proposals directly relating thereto, in either case the disclosure of which would reasonably be expected to have an adverse effect upon the Company or its stockholders.

(u) Termination of Registration Rights. The obligations of the Company pursuant to Section 4(r) hereof shall cease and terminate, with respect to any Registrable Shares, upon such time as such Registrable Shares have been resold or, if earlier, the third anniversary of the date hereof.

(v) Resale of Note Shares. Each Buyer hereby represents to the Company that if such Buyer sells Note Shares pursuant to an effective registration statement, such Note Shares shall be sold in compliance with applicable prospectus delivery requirements and the plan of distribution set forth therein and acknowledges that the removal of the restrictive legend from the certificates or book-entry notations representing the Note Shares as set forth in Section 5(d) is predicated upon the Company's reliance upon such representation. Notwithstanding the foregoing, the Company acknowledges that the timely filing by the Company of the Prospectus Supplement with the SEC shall satisfy the Buyer's prospectus delivery requirements. Each Buyer further represents that, assuming the accuracy of the Company's representations and compliance with its covenants herein, any sale by it of Note Shares will comply with the registration or qualification requirements of all applicable securities laws.

5. REGISTER; TRANSFER AGENT INSTRUCTIONS.

(a) Register. The Company shall maintain at its principal executive offices (or such other office or agency of the Company as it may designate by notice to each holder of Securities), a register for the registration of the Securities in which the Company shall record the name and address of the Person in whose name the Purchased Securities have been issued (including the name and address of each transferee), the aggregate amount of the Notes held by such Person and the number of Note Shares issuable pursuant to the terms of the Convertible Notes held by such Person. The Company shall keep the register open and available at all times during business hours for inspection of any Buyer or its legal representatives. This provision shall be construed such that the Securities and the Notes are at all times maintained in "registered form" within the meanings of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code (as defined below) and any Treasury Regulations promulgated thereunder.

(b) Transfer Agent. The Company represents and warrants that no instruction other than the stop transfer instructions to give effect to Sections 2(g) and 5(c), as applicable, will be given by the Company to the Transfer Agent with respect to the Securities, and that the Securities shall otherwise be freely transferable on the books and records of the Company, as applicable, to the extent provided in this Agreement and the other Transaction Documents. If a Buyer effects a sale, assignment or transfer of the Securities in accordance with Sections 2(g) and 5(c), as applicable, the Company shall permit the transfer and shall promptly instruct the Transfer Agent to issue one or more certificates or credit shares to the applicable balance accounts at DTC in such name and in such denominations as specified by such Buyer to effect such sale, transfer or assignment. In the event that such sale, assignment or transfer involves Note Shares sold, assigned or transferred pursuant to an effective registration statement or in compliance with Rule 144, the Transfer Agent shall issue such shares to such Buyer, assignee or transferee (as the case may be) without any restrictive legend in accordance with Section 5(d). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to a Buyer. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Section 5(b) will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Section 5(b), that a

Buyer shall be entitled, in addition to all other available remedies, to an order and/or injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required. Any fees (with respect to the Transfer Agent, counsel to the Company or otherwise) associated with the removal of any legends on any of the Securities shall be borne by the Company.

(c) Legends. Each Buyer understands that the Securities have been issued (or will be issued in the case of the Note Shares) pursuant to an exemption from registration or qualification under the 1933 Act and applicable state securities laws, and except as set forth herein, the Securities shall bear any legend as required by the “blue sky” laws of any state and a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such stock certificates):

Note Legend

The restrictive legends on the Notes shall be as set forth in Section 2.09(A) of the Indenture.

Note Shares Legend

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT WITH REASONABLE ASSURANCE THAT SUCH SECURITIES CAN BE SOLD, TRANSFERRED OR ASSIGNED PURSUANT TO RULE 144 OR RULE 144A. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

(d) Removal of Legends. Certificates evidencing Note Shares shall not be required to contain the legend set forth in Section 5(c) or any other legend (i) while a registration statement covering the resale of such Note Shares is effective under the 1933 Act or (ii) following any sale of such Note Shares pursuant to Rule 144 (assuming the transferor is not an affiliate of the Company), provided that a Buyer furnishes the Company with reasonable assurances that such Note Shares are eligible for sale, assignment or transfer under Rule 144 without any requirement other than with respect to holding period (which holding period is then satisfied), which shall not include an opinion of Buyer’s counsel, (iii) if such Securities are eligible to be sold, assigned or transferred under Rule 144 without restriction, and (iv) in connection with a sale, assignment or other transfer (other than under Rule 144), provided that such Buyer provides the Company with an opinion of counsel to such Buyer, in a generally acceptable form, to the effect that such sale, assignment or transfer of the Securities may be made without registration under the applicable provisions of the 1933 Act and that such legends would no longer be required following such sale, assignment or transfer. If a legend is not required pursuant to the foregoing, the Company shall no later than two (2) Business Days (or such earlier date as required pursuant to the 1934 Act or other applicable law, rule or regulation for the settlement of a trade initiated on the date

such Buyer delivers such legended certificate representing such Note Shares to the Company) following the delivery by a Buyer to the Company or the Transfer Agent (with notice to the Company) of a legended certificate representing such Note Shares (endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to affect the reissuance and/or transfer, if applicable), together with any other deliveries from such Buyer as may be reasonably required above in this Section 5(d) (such date, the “**Legend Removal Date**”), as directed by such Buyer, either: (A) provided that the Transfer Agent is participating in FAST, credit the applicable number of shares of Common Stock to which such Buyer shall be entitled to such Buyer’s or its designee’s balance account with DTC through its DWAC system or (B) if the Transfer Agent is not participating in FAST, issue and deliver (via reputable overnight courier) to such Buyer, a certificate representing such Note Shares that is free from all restrictive and other legends, registered in the name of such Buyer or its designee. The Company shall be responsible for any transfer agent fees, DTC fees or costs of obtaining legal opinions with respect to any issuance of Note Shares or the removal of any legends with respect to any Note Shares in accordance herewith.

(e) If the Company or the Transfer Agent fails to deliver shares to a Buyer or an applicable assignee or transferee (as the case may be) without any restrictive legend in accordance with Section 5(b) or Section 5(d), then in addition to such Buyer’s other available remedies hereunder, the Company shall pay to such Buyer, in cash, (1) as partial liquidated damages and not as a penalty, for each \$1,000 of Note Shares (based on the daily volume-weighted average price on the date that the Buyer delivered notice of its entitlement to such shares of the Common Stock or the date such Buyer delivers notice or a legended certificate, as applicable, to the Company or the Transfer Agent) for which the Company or the Transfer Agent fails to deliver shares without any restrictive legend an amount equal to \$10 per Business Day (increasing to \$20 per Business Day five (5) Business Days after such damages have begun to accrue) for each Business Day after the Legend Removal Date until such undelivered shares are delivered without a legend; and (2) if the Company is obligated to remove the restrictive legends pursuant to Section 5(d) but fails to (a) issue and deliver (or cause to be delivered) shares to a Buyer by the Legend Removal Date that are free from all restrictive and other legends and (b) if after the Legend Removal Date a Buyer purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in settlement of a sale by the Buyer of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock, that the Buyer anticipated receiving from the Company without any restrictive legend, then an amount equal to the excess of the Buyer’s total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) over the product of (A) such number of shares of Common Stock that the Company was required to deliver to the Buyer by the Legend Removal Date multiplied by (B) the price at which the sell order giving rise to such purchase obligation was executed. For avoidance of doubt, this Section 5(e) shall not be duplicative with any provisions in the Notes addressing any failure to deliver shares without restrictive legends.

(f) FAST Compliance. While any Notes remain outstanding, the Company shall maintain a transfer agent that participates in FAST.

6. CONDITIONS TO THE COMPANY’S OBLIGATION TO SELL THE PURCHASED SECURITIES.

(a) The obligation of the Company hereunder to issue and sell the Purchased Securities to each Buyer at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Company’s

sole benefit and may be waived by the Company at any time in its sole discretion by providing each Buyer with prior written notice thereof:

(i) Such Buyer shall have executed each of the other Transaction Documents to which it is a party and delivered the same to the Company.

(ii) Such Buyer and each other Buyer shall have delivered to the Company the Purchase Price for the Purchased Securities being purchased by such Buyer at the Closing in accordance with the Flow of Funds Letter.

(iii) The representations and warranties of such Buyer shall be true and correct in all material respects (except for such representations and warranties that are qualified by materiality or material adverse effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though originally made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such specific date), and such Buyer shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by such Buyer at or prior to the Closing Date.

(iv) The transactions contemplated by the Redemption Letter Agreement must occur substantially contemporaneously with the Closing.

7. CONDITIONS TO EACH BUYER'S OBLIGATION TO PURCHASE THE PURCHASED SECURITIES.

(a) The obligation of each Buyer hereunder to purchase its Purchased Securities at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for each Buyer's sole benefit and may be waived by such Buyer at any time in its sole discretion by providing the Company with prior written notice thereof; provided, however, that no Buyer may waive the conditions set forth in (ix), (x) or (xii) below without the consent of the Company:

(i) The Company and Investments shall have duly executed and delivered to such Buyer each of the Transaction Documents to which it is a party and the Company shall have duly executed and delivered to such Buyer the Purchased Securities set forth across from such Buyer's name on the Schedule of Buyers at the Closing pursuant to this Agreement.

(ii) Such Buyer shall have received the opinions of each of Davis Graham & Stubbs LLP and Kirkland & Ellis LLP, the Company's counsel, each dated as of the Closing Date and covering matters customary in similar transactions, in forms reasonably acceptable to such Buyer.

(iii) The Company shall have delivered to such Buyer a certificate evidencing the formation and good standing of the Company, Investments and Production Holdings in each such entity's jurisdiction of formation issued by the Secretary of State (or comparable office) of such jurisdiction of formation as of a date within ten (10) days of the Closing Date.

(iv) The Company shall have delivered to such Buyer a certified copy of the Certificate of Incorporation of the Company as certified by the Delaware Secretary of State within ten (10) days of the Closing Date.

(v) The Company shall have delivered to such Buyer a certificate, in the form acceptable to such Buyer, executed by the Secretary of the Company and dated as of the Closing Date, as to (i) the resolutions consistent with Section 3(b) as adopted by the Company's Board of Directors or a committee thereof in a form reasonably acceptable to such Buyer, (ii) the Certificate of Incorporation of the Company and (iii) the Bylaws of the Company, each as in effect at the Closing.

(vi) The representations and warranties of the Company shall be true and correct in all material respects (except for such representations and warranties that are qualified by materiality or material adverse effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though originally made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such specific date) and the Company shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions (except for covenants, agreements or conditions that are qualified by materiality or material adverse effect, which shall be performed, satisfied and complied with in all respects) required to be performed, satisfied or complied with by the Company at or prior to the Closing Date. Such Buyer shall have received a certificate, duly executed by the Chief Executive Officer or Chief Financial Officer of the Company, dated as of the Closing Date, to the foregoing effect in the form reasonably acceptable to such Buyer.

(vii) The Company shall have delivered to such Buyer a letter from the Transfer Agent certifying the number of shares of Common Stock outstanding on the Closing Date immediately prior to the Closing.

(viii) The Common Stock (A) shall be designated for quotation or listed (as applicable) on the Principal Market and (B) shall not have been suspended, as of the Closing Date, by the SEC or the Principal Market from trading on the Principal Market nor shall suspension by the SEC or the Principal Market have been threatened, as of the Closing Date, either (1) in writing by the SEC or the Principal Market or (2) by falling below the minimum maintenance requirements of the Principal Market.

(ix) The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the sale of the Securities, including without limitation, those required by the Principal Market, if any.

(x) No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or Governmental Entity of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents.

(xi) Since the date of execution of this Agreement, no event or series of events shall have occurred that reasonably would have or result in a Material Adverse Effect.

(xii) The Company shall have obtained approval of the Principal Market to list or designate for quotation (as the case may be) the Note Shares and confirmation from the Principal Market that no stockholder vote or other conditions under the rules of the Principal Market shall apply to the sale of the Securities at the Closing.

(xiii) Such Buyer shall have received a letter on the letterhead of the Company, duly executed by the Chief Executive Officer or Chief Financial Officer of the Company and agreed upon by such Buyer and the Company, setting forth the wire amounts of each

Buyer and the wire transfer instructions of the Company (a “**Flow of Funds Letter**”) with respect to the Purchased Securities.

(xiv) The Company shall have delivered to such Buyer the results of a recent lien, bankruptcy and judgment search in each relevant jurisdiction with respect to the Company and its Subsidiaries and such search shall reveal no Liens on any of the Collateral (as such term is defined in the Indenture) or other assets of the Company and its Subsidiaries except for Permitted Liens and except for Liens to be discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Buyer.

(xv) The Company shall have paid to HB Fund LLC any accrued and unpaid interest on the Prior Note through the Closing Date.

(xvi) All amounts due under Section 4(g) shall have been paid or arrangements shall have been made for them to be paid on the Closing Date, in each case, to the extent due and, in the case of expenses of the Buyers that are reimbursable in accordance herewith, invoiced at least one (1) Business Day prior to the Closing Date.

(xvii) The Company and its Subsidiaries shall have delivered to such Buyer such other documents, instruments or certificates relating to the transactions contemplated by the Transaction Documents as such Buyer or its counsel may reasonably request.

(xviii) The transactions contemplated by the Redemption Letter Agreement must occur substantially contemporaneously with the Closing.

8. TERMINATION.

In the event that the Closing shall not have occurred with respect to a Buyer within ten (10) days of the date hereof, then such Buyer shall have the right to terminate its obligations under this Agreement with respect to itself at any time on or after the close of business on such date without liability of the terminating party to any other party. Subject to the prior satisfaction or waiver of the conditions set forth in Section 7 (other than those that by their nature are to be satisfied at Closing), in the event that the Closing shall not have occurred within three (3) Business Days after the Company has given written notice to the Buyers that all conditions to the Company’s obligations set forth in Section 6 of the date hereof have been satisfied or waived (other than those that by their nature are to be satisfied at Closing) and that the Trustee has registered the transfer of the Prior Note to the Buyer in the records of the Trustee, then the Company shall have the right to terminate its obligations under this Agreement at any time on or after the close of business on such third Business Day without liability of the Company to any other party. Notwithstanding the foregoing, (i) the right to terminate this Agreement under this Section 8 shall not be available to the terminating party if the failure of the transactions contemplated by this Agreement to have been consummated by such date is the result of such party’s breach of this Agreement, (ii) the termination of the sale and purchase of the Purchased Securities shall be applicable only to such Buyer with respect to the first sentence of this Section 8; provided further that no such termination shall affect any obligation of the Company under this Agreement to reimburse such Buyer for the expenses described in Section 4(g) above; and (iii) the Company may not provide the written notice referred to in the second sentence of this Section 8 unless all conditions to each Buyer’s obligations set forth in Section 7 hereof have been satisfied or waived by the Buyers, if applicable (other than those that by their nature are to be satisfied at Closing). Nothing contained in this Section 8 shall be deemed to release any party from any liability for any breach by such party of the terms and provisions of this Agreement or the other Transaction Documents or to impair the right of any party to compel specific performance by any other party of its obligations under this Agreement or the other Transaction

Documents. In the event that this Agreement is terminated prior to Closing, neither this Agreement nor any other Transaction Documents will have any impact on the Prior SPA or the Prior Transaction Documents.

9. MISCELLANEOUS.

(a) Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company and each Buyer hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or under any of the other Transaction Documents or with any transaction contemplated hereby or thereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude any party from bringing suit or taking other legal action against another party in any other jurisdiction to collect on such party's obligations to the first party or to enforce a judgment or other court ruling in favor of such first party. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR UNDER ANY OTHER TRANSACTION DOCUMENT OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY.**

(b) Counterparts; Electronic Signatures. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. Each party hereto accepts the foregoing and any document received in accordance with this Section 9(b) shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this agreement.

The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the each of the parties hereto, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any

applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Each of the parties hereto represents and warrants to the other parties that it has the corporate capacity and authority to execute the Agreement through electronic means and there are no restrictions for doing so in that party's constitutive documents.

(c) Headings; Gender; Interpretation. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Schedules and Exhibits mean the Articles and Sections of, and Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(d) Severability; Maximum Payment Amounts. If any provision of this Agreement is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Agreement so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s). Notwithstanding anything to the contrary contained in this Agreement or any other Transaction Document (and without implication that the following is required or applicable), it is the intention of the parties that in no event shall amounts and value paid by the Company and/or any of its Subsidiaries (as the case may be), or payable to or received by any of the Buyers, under the Transaction Documents (including without limitation, any amounts that would be characterized as "interest" under applicable law) exceed amounts permitted under any applicable law. Accordingly, if any obligation to pay, payment made to any Buyer, or collection by any Buyer pursuant the Transaction Documents is finally judicially determined to be contrary to any such applicable law, such obligation to pay, payment or collection shall be deemed to have been made by mutual mistake of such Buyer, the Company and its Subsidiaries and such amount shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by the applicable law. Such adjustment shall be effected, to the extent necessary, by reducing or refunding, at the option of such Buyer, the amount of interest or any other amounts which would constitute unlawful amounts required to be paid or

actually paid to such Buyer under the Transaction Documents. For greater certainty, to the extent that any interest, charges, fees, expenses or other amounts required to be paid to or received by such Buyer under any of the Transaction Documents or related thereto are held to be within the meaning of “interest” or another applicable term to otherwise be violative of applicable law, such amounts shall be pro-rated over the period of time to which they relate.

(e) Entire Agreement; Amendments. Except as expressly stated herein, this Agreement, the other Transaction Documents and the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein supersede all other prior oral or written agreements between the Buyers, the Company, its Subsidiaries, their affiliates and Persons acting on their behalf, including, without limitation, any transactions by any Buyer with respect to Common Stock or the Securities, and the other matters contained herein and therein, and this Agreement, the other Transaction Documents and the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein contain the entire understanding of the parties solely with respect to the matters covered herein and therein; provided, however, nothing contained in this Agreement or any other Transaction Document or the Prior Transaction Documents shall (or shall be deemed to) (i) have any effect on any agreements any Buyer has entered into with, or any instruments any Buyer has received from, the Company or any of its Subsidiaries prior to the date hereof with respect to any prior investment (other than in connection with the Prior Transaction Documents) made by such Buyer in the Company or (ii) waive, alter, modify or amend in any respect any obligations of the Company or any of its Subsidiaries, or any rights of or benefits to any Buyer or any other Person, in any agreement entered into prior to the date hereof between or among the Company and/or any of its Subsidiaries and any Buyer, or any instruments any Buyer received from the Company and/or any of its Subsidiaries prior to the date hereof, and all such agreements and instruments (other than the Prior Note, which for the avoidance of doubt shall automatically terminate in all respects upon the closing of the redemption contemplated by the Redemption Letter Agreement, and the other Prior Transaction Documents) shall continue in full force and effect. Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall be deemed to release any party from any liability for any prior breach by such party of the terms and provisions of the Prior Transaction Documents (other than the Prior Note in the event that the redemption contemplated by the Redemption Letter Agreement is completed). Except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking. For clarification purposes, the Recitals are part of this Agreement. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the Required Holders, and any amendment to any provision of this Agreement made in conformity with the provisions of this Section 9(e) shall be binding on all Buyers and holders of Securities, as applicable; provided that no such amendment shall be effective to the extent that it (A) applies to less than all of the holders of the Securities then outstanding or (B) imposes any obligation or liability on any Buyer that is disproportionate relative to other Buyers without such Buyer’s prior written consent (which may be granted or withheld in such Buyer’s sole discretion). No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party, provided that the Required Holders may waive any provision of this Agreement, and any waiver of any provision of this Agreement made in conformity with the provisions of this Section 9(e) shall be binding on all Buyers and holders of Securities, as applicable, provided that no such waiver shall be effective to the extent that it (1) applies to less than all of the holders of the Securities then outstanding (unless a party gives a waiver as to itself only) or (2) imposes any obligation or liability on any Buyer that is disproportionate relative to other Buyers without such Buyer’s prior written consent (which may be granted or withheld in such Buyer’s sole discretion). The Company has not, directly or indirectly, made any agreements with any Buyers relating to the terms or conditions of the transactions contemplated by the Transaction Documents and the Prior Transaction Documents except as set forth in the Transaction Documents and the Prior Transaction Documents. Without

limiting the foregoing, the Company confirms that, except as set forth in this Agreement, no Buyer has made any commitment or promise or has any other obligation to provide any financing to the Company, any Subsidiary or otherwise. As a material inducement for each Buyer to enter into this Agreement, the Company expressly acknowledges and agrees that (x) no due diligence or other investigation or inquiry conducted by a Buyer, any of its advisors or any of its representatives shall affect such Buyer's right to rely on, or shall modify or qualify in any manner or be an exception to any of, the Company's representations and warranties contained in this Agreement or any other Transaction Document and (y) unless a provision of this Agreement or any other Transaction Document is expressly preceded by the phrase "except as disclosed in the SEC Documents," or words to substantially similar effect, nothing contained in any of the SEC Documents shall affect such Buyer's right to rely on, or shall modify or qualify in any manner or be an exception to any of, the Company's representations and warranties contained in this Agreement or any other Transaction Document. "**Required Holders**" means (I) prior to the Closing Date, each Buyer entitled to purchase Purchased Securities at the Closing and (II) on or after the Closing Date, holders of a majority of the aggregate principal amount of the Notes, so long as any Notes remain outstanding, and if no Notes remain outstanding, holders of the majority of the Note Shares in the aggregate as of such time issued or issuable hereunder or pursuant to the Notes.

(f) **Notices.** Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by electronic mail (provided that such sent email is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's email server that such e-mail could not be delivered to such recipient); or (iii) one (1) Business Day after deposit with an overnight courier service with next day delivery specified, in each case, properly addressed to the party to receive the same. The addresses and e-mail addresses for such communications shall be:

If to the Company:

Tellurian Inc.
1201 Louisiana Street, Suite 3100
Houston, Texas 77002
Telephone: (832) 962-4000
Attention: Legal
E-Mail: legal.notices@tellurianinc.com

If to the Transfer Agent:

Broadridge Corporate Issuer Solutions, Inc.
51 Mercedes Way
Edgewood, NY 11711
Telephone: (720) 957-8195
Attention: Michael Dromgoole
E-mail: michael.dromgoole@broadridge.com

If to a Buyer, to (i) its e-mail address set forth on the Schedule of Buyers, with copies to such Buyer's representatives as set forth on the Schedule of Buyers and (ii) to Eric Helenek, High Trail Capital, 80 River Street, Suite 4C, Hoboken, NJ 07030 (telephone: (917) 414-1733)

with a copy (for informational purposes only) to:

Latham & Watkins LLP
12670 High Bluff Drive
San Diego, CA 92130
Telephone: (858) 523-5400
Facsimile: (858) 523-5450
Attention: Michael E. Sullivan, Esq.
E-mail: michael.sullivan@lw.com

or to such other address, e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) electronically generated by the sender's e-mail or (C) provided by an overnight courier service shall be rebuttable evidence of personal service or receipt from an overnight courier service in accordance with clause (i) or (iii) above, respectively.

(g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, including any purchasers of any of the Purchased Securities; provided, however that a Buyer or holder of the Notes may not assign or otherwise transfer any of its rights or obligations hereunder to any Disqualified Institution (as defined below) or any of their affiliates that are readily identifiable on the basis of such affiliate's name. A "Disqualified Institution" includes any entity listed on Exhibit H attached hereto; provided further, however, that the preceding limitation shall not apply if an Event of Default (as defined in the Indenture) has occurred and is continuing. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Required Holders, including, without limitation, by way of a Fundamental Change (as defined in the Indenture) unless the Company is in compliance with the applicable provisions governing Fundamental Changes set forth in the Indenture. Subject to the foregoing, a Buyer may assign some or all of its rights hereunder in connection with any transfer of any of its Securities without the consent of the Company, provided (i) such assignee agrees in writing provided to the Company to be bound by the provisions hereof that apply to Buyers in which event such assignee shall be deemed to be a Buyer hereunder with respect to such assigned rights and (ii) a Buyer may not assign its rights under Sections 4(g) and 4(j), in each case, other than to an affiliate, without the prior written consent of the Company. Any purported assignment in violation of the foregoing shall be void.

(h) No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, other than the Indemnitees referred to in Section 9(k).

(i) Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is six (6) months after Maturity Date (as defined in the Indenture); provided, that the representations and warranties in (a) Section 3(a), Section 3(b), Section 3(g), Section 3(r) and Section 3(z) shall survive indefinitely and (b) the representation and warranty in Section 3(aa) shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus sixty (60) days. All covenants and agreements of the parties contained herein shall survive the Closing for the period explicitly specified therein, or, if no such period is specified, so long as any Notes remain outstanding. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not

thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved. No claim for indemnification may be asserted against either party for breach of any representation, warranty, covenant or agreement contained herein, unless written notice of such claim is received by such party describing in reasonable detail the facts and circumstances with respect to the subject matter of such claim on or prior to the date on which the representation, warranty, covenant or agreement on which such claim is based ceases to survive as set forth in this Section 9(i).

(j) Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(k) Indemnification.

(i) In consideration of each Buyer's execution and delivery of the Transaction Documents to which it is a party and acquiring the Securities thereunder and in addition to all of the Company's other obligations under the Transaction Documents, the Company shall defend, protect, indemnify and hold harmless each Buyer and all of their stockholders, partners, members, officers, directors, employees and direct or indirect investors and any of the foregoing Persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) (collectively, the "**Indemnitees**") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and reasonable expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable and documented out-of-pocket attorneys' fees and disbursements (the "**Indemnified Liabilities**"), incurred by any Indemnitee as a result of, or arising out of, or relating to (i) any misrepresentation or breach of any representation or warranty made by the Company or any Subsidiary in any of the Transaction Documents, (ii) any breach of any covenant, agreement or obligation of the Company or any Subsidiary contained in any of the Transaction Documents or (iii) any cause of action, suit, proceeding or claim brought or made against such Indemnitee by a third party (including for these purposes a derivative action brought on behalf of the Company or any Subsidiary) or which otherwise involves such Indemnitee that arises out of or results from (A) the Company's execution, delivery, performance or enforcement of any of the Transaction Documents, or (B) the status of such Buyer either as an investor in the Company pursuant to the transactions contemplated by the Transaction Documents or as a party to this Agreement (including as a party in interest or otherwise in any action or proceeding for injunctive or other equitable relief); provided, however, that the Company will not be liable in any such case to a Buyer or its related Indemnitees to the extent that any such claim, loss, damage, liability or expense arise primarily out of or is based primarily upon the inaccuracy of any representations and warranties made by such Buyer herein or the willful misconduct or gross negligence on the part of such Buyer or such related Indemnitee.

(ii) Promptly after receipt by an Indemnitee under this Section 9(k) of notice of the commencement of any action or proceeding (including, without limitation, any governmental action or proceeding) involving an Indemnified Liability, such Indemnitee shall, if a claim in respect thereof is to be made against the Company under this Section 9(k), deliver to the Company a written notice of the commencement thereof, and the Company shall have the right to participate in, and, to the extent it so desires, to

assume control of the defense thereof with counsel mutually satisfactory to the Company and the Indemnitee; provided, however, that an Indemnitee shall have the right to retain its own counsel with the fees and expenses of such counsel to be paid by the Company if: (i) the Company has agreed in writing to pay such fees and expenses; (ii) the Company shall have failed promptly to assume the defense of such Indemnified Liability and to employ counsel reasonably satisfactory to such Indemnitee in any such Indemnified Liability; or (iii) the named parties to any such Indemnified Liability (including, without limitation, any impleaded parties) include both such Indemnitee and the Company, and such Indemnitee shall have been advised by counsel that a conflict of interest is likely to exist if the same counsel were to represent such Indemnitee and the Company (in which case, if such Indemnitee notifies the Company in writing that it elects to employ separate counsel at the expense of the Company, then the Company shall not have the right to assume the defense thereof and such counsel shall be at the expense of the Company), provided further that in the case of clause (iii) above the Company shall not be responsible for the reasonable fees and expenses of more than one (1) separate legal counsel for such Indemnitee. The Indemnitee shall reasonably cooperate with the Company in connection with any negotiation or defense of any such action or claim by the Company and shall furnish to the Company all information reasonably available to the Indemnitee which relates to such Indemnified Liability. The Company shall keep the Indemnitee reasonably apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. The Company shall not be liable for any settlement of any action, claim or proceeding effected without its prior written consent; provided, however, it shall not unreasonably withhold, delay or condition its consent. The Company shall not, without the prior written consent of the Indemnitee, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnitee of a release from all liability in respect to such Indemnified Liability, and such settlement shall not include any admission as to fault on the part of the Indemnitee. Following indemnification as provided for hereunder, the Company shall be subrogated to all rights of the Indemnitee with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the Company within a reasonable time of the commencement of any such action shall not relieve the Company of any liability to the Indemnitee under this Section 9(k), except to the extent that the Company is materially and adversely prejudiced in its ability to defend such action. The indemnification required by this Section 9(k) shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when Indemnified Liabilities are incurred. The indemnity and contribution agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnitees against the Company or others, and (ii) any liabilities the Company may be subject to pursuant to the law. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law.

(l) Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party. No specific representation or warranty shall limit the generality or applicability of a more general representation or warranty unless otherwise provided for herein. Each and every reference to share prices, shares of Common Stock and any other numbers in this Agreement that relate to the Common Stock shall be automatically adjusted for any stock splits, stock dividends, stock combinations, recapitalizations or other similar transactions that occur with respect to the Common Stock after the date of this Agreement. Notwithstanding anything in this Agreement to the contrary, for the avoidance of doubt, nothing

contained herein shall constitute a representation or warranty against, or a prohibition of, any actions with respect to the borrowing of, arrangement to borrow, identification of the availability of, and/or securing of, securities of the Company in order for such Buyer (or its broker or other financial representative) to effect short sales or similar transactions in the future.

(m) Remedies. Each Buyer and in the event of assignment by a Buyer of its rights and obligations hereunder, each holder of Securities, shall have all rights and remedies set forth in the Transaction Documents and all rights and remedies which such holders have been granted at any time under any other agreement or contract and all of the rights which such holders have under any law. Any Person having any rights under any provision of this Agreement shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law. Furthermore, the Company recognizes that in the event that it or any Subsidiary fails to perform, observe, or discharge any or all of its or such Subsidiary's (as the case may be) obligations under the Transaction Documents, any remedy at law would be inadequate relief to the Buyers. The Company therefore agrees that the Buyers shall be entitled to specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security. The remedies provided in this Agreement and the other Transaction Documents shall be cumulative and in addition to all other remedies available under this Agreement and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief).

(n) Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) the Transaction Documents, whenever any Buyer exercises a right, election, demand or option under a Transaction Document and the Company or any Subsidiary does not timely perform its related obligations within the periods therein provided, then such Buyer may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company or such Subsidiary (as the case may be), any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights.

(o) Payment Set Aside; Currency. To the extent that the Company makes a payment or payments to any Buyer hereunder or pursuant to any of the other Transaction Documents or any of the Buyers enforce or exercise their rights hereunder or thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, foreign, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred. Unless otherwise expressly indicated, all dollar amounts referred to in this Agreement and the other Transaction Documents are in United States Dollars ("**U.S. Dollars**"), and all amounts owing under this Agreement and all other Transaction Documents shall be paid in U.S. Dollars. All amounts denominated in other currencies (if any) shall be converted into the U.S. Dollar equivalent amount in accordance with the Exchange Rate on the date of calculation. "**Exchange Rate**" means, in relation to any amount of currency to be converted into U.S. Dollars pursuant to this Agreement, the U.S. Dollar exchange rate as published in the Wall Street Journal on the relevant date of calculation.

(p) Independent Nature of Buyers' Obligations and Rights. The obligations of each Buyer under the Transaction Documents to which it is a party are several and not joint with the obligations of any other Buyer, and no Buyer shall be responsible in any way for the

performance of the obligations of any other Buyer under any Transaction Document. Nothing contained herein or in any other Transaction Document shall be deemed to constitute the Buyers as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption, as among the parties hereto, that the Buyers are in any way acting in concert or as a group or entity, and the Company shall not assert any such claim with respect to such obligations or the transactions contemplated by the Transaction Documents. The decision of each Buyer to purchase Securities pursuant to the Transaction Documents has been made by such Buyer independently of any other Buyer. Each Buyer acknowledges that no other Buyer has acted as agent for such Buyer in connection with such Buyer making its investment hereunder and that no other Buyer will be acting as agent of such Buyer in connection with monitoring such Buyer's investment in the Securities or enforcing its rights under the Transaction Documents. Each Buyer confirms that each Buyer has independently participated with the Company and its Subsidiaries in the negotiation of the transaction contemplated hereby with the advice of its own counsel and advisors. Each Buyer shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Buyer to be joined as an additional party in any proceeding for such purpose. The use of a single agreement to effectuate the purchase and sale of the Securities contemplated hereby was solely in the control of the Company, not the action or decision of any Buyer, and was done solely for the convenience of the Company and its Subsidiaries and not because it was required or requested to do so by any Buyer. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company, each applicable Subsidiary and a Buyer, solely, and not between the Company, its applicable Subsidiaries and the Buyers collectively and not between and among the Buyers.

(q) Performance Date. If the date by which any obligation under any of the Transaction Documents must be performed occurs on a day other than a Business Day, then the date by which such performance is required shall be the next Business Day following such date.

(r) Enforcement Fees. The prevailing party or parties in any action to enforce the Transaction Documents shall be entitled to recover all reasonable costs and expenses from the non-prevailing party or parties incurred as a result of enforcement of the Transaction Documents and, as applicable, the collection of any amounts owed hereunder (whether in cash, equity or otherwise), including, without limitation, reasonable attorneys' fees and expenses.

[signature pages follow]

IN WITNESS WHEREOF, each Buyer and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

COMPANY:

TELLURIAN INC.

By: /s/ Simon G. Oxley
Name: Simon G. Oxley
Title: Executive Vice President and
Chief Financial Officer

[Signature Page to Securities Purchase Agreement]

IN WITNESS WHEREOF, each Buyer and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

BUYER:

HB FUND LLC

By: Hudson Bay Capital Management LP
Not individually, but solely as investment adviser to HB Fund LLC*

By: /S/ Richard Allison

Name: Richard Allison
Title: Authorized Signatory

* Authorized Signatory
Hudson Bay Capital Management LP
Not individually, but solely as investment adviser to HB Fund LLC

[Signature Page to Securities Purchase Agreement]

Exhibit A
Form of Convertible Notes

[See attached.]

FORM OF NOTE

TELLURIAN INC.

6.00% Senior Secured Convertible Note due 2025

CUSIP No.: [] Certificate No. []

ISIN No.: []

Tellurian Inc., a Delaware corporation, for value received, promises to pay to [], or its registered assigns, the principal sum of eighty three million three hundred and thirty four thousand dollars (\$83,334,000) on October 1, 2025 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: January 1, April 1, July 1 and October 1 of each year, commencing on [date].

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

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Tellurian Inc. has caused this instrument to be duly executed as of the date set forth below.

Tellurian Inc.

Date: By:

Name:
Title:

TRUSTEE’S CERTIFICATE OF AUTHENTICATION

Wilmington Trust, National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: By:
Authorized Signatory



TELLURIAN INC.

6.00% Senior Secured Convertible Note due 2025

This Note is one of a duly authorized issue of notes of Tellurian Inc., a Delaware corporation (the “**Company**”), designated as its 6.00% Senior Secured Convertible Notes due 2025 (the “**Notes**”), all issued or to be issued pursuant to an indenture (the “**Base Indenture**”), dated as of June 3, 2022, between the Company and Wilmington Trust, National Association, as trustee, and an Ninth Supplemental Indenture, among the Company, Wilmington Trust, National Association, as trustee, and HB Fund LLC, as collateral agent (as the same may be amended from time to time, the “**Supplemental Indenture**,” and the Base Indenture, as amended by the Supplemental Indenture, and as the same may be further amended or supplemented from time to time with respect to the Notes, the “**Indenture**”), dated as of August [●], 2023. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee, the Collateral Agent and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Supplemental Indenture. Stated Interest on this Note will begin to accrue from, and including, [date].

2. **Maturity.** This Note will mature on October 1, 2025, unless earlier repurchased, redeemed or converted.

3. **Method of Payment.** Cash amounts and shares of Common Stock due on this Note will be paid in the manner set forth in Sections 2.04 and 3.01 of the Supplemental Indenture.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** Subject to the other terms of the Indenture, if a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 5.02 of the Supplemental Indenture.

7. **Right of the Holder to Redeem the Notes.** Subject to the other terms of the Indenture, each of the Company and the Holder will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 5.03 of the Indenture.

8. **Conversion.** Each of the Company and the Holder will have the right to convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 6 of the Supplemental Indenture.

9. **When the Company May Merge, Etc.** Article 7 of the Supplemental Indenture places limited restrictions on the Company's ability to be a party to a Business Combination Event.

10. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 8 of the Supplemental Indenture.

11. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Supplemental Indenture or the Notes in the manner, and subject to the terms, set forth in Article 9 of the Supplemental Indenture.

12. **Collateral.** The obligations of the Company under the Indenture and this Note are secured by the Collateral, as set forth in the Collateral Documents. The Collateral may be released in certain circumstances set forth in Section 9.01 of the Supplemental Indenture. From and after the date that the Secured Indenture is discharged and satisfied and the Secured Notes are no longer outstanding, the Notes shall no longer be secured by the Collateral (other than Liens securing any accounts with a Blocked DACA in effect).

13. **No Personal Liability of Directors, Officers, Employees and Stockholders.** No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

14. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

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

16. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY

AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Tellurian Inc.
1201 Louisiana Street, Suite 31000
Houston, TX 77002
Attention: Legal Department

ASSIGNMENT FORM

TELLURIAN INC.

6.00% Senior Secured Convertible Notes due 2025

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name:

Address:

Social security or
tax identification
number:

the within Note and all rights thereunder irrevocably appoints:
as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

In connection with any transfer of the within Note, the undersigned Holder confirms that the within Note is being transferred in accordance with its terms:

CHECK ONE BOX BELOW

1. to the Company;
2. pursuant to an effective registration statement under the Securities Act of 1933;
3. inside the United States to a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933;
4. pursuant to the exemption from registration provided by Rule 144 under the Securities Act of 1933; or
5. pursuant to any other exemption from registration under the Securities Act of 1933.

Unless one of the boxes is checked, the Registrar will refuse to register the within Note in the name of any person other than the registered holder thereof; *provided, however*, that the Registrar shall be entitled to require, prior to registering any such transfer of the within Note, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933, such as the exemption provided by Rule 144 under such Act.

Date: _____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: _____

Exhibit B

Form of Non-Convertible Notes

[See attached.]

FORM OF NOTE

TELLURIAN INC.

10.00% Senior Secured Note due 2025

CUSIP No.: [] Certificate No. []

ISIN No.: []

Tellurian Inc., a Delaware corporation, for value received, promises to pay to [], or its registered assigns, the principal sum of two hundred and fifty million dollars (\$250,000,000) on October 1, 2025 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: January 1, April 1, July 1 and October 1 of each year, commencing on [date].

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

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Tellurian Inc. has caused this instrument to be duly executed as of the date set forth below.

Tellurian Inc.

Date: By:

Name:
Title:

TRUSTEE’S CERTIFICATE OF AUTHENTICATION

Wilmington Trust, National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: By:
Authorized Signatory



TELLURIAN INC.

10.00% Senior Secured Note due 2025

This Note is one of a duly authorized issue of notes of Tellurian Inc., a Delaware corporation (the “**Company**”), designated as its 10.00% Senior Secured Notes due 2025 (the “**Notes**”), all issued or to be issued pursuant to an indenture (the “**Base Indenture**”), dated as of June 3, 2022, between the Company and Wilmington Trust, National Association, as trustee, and a Eighth Supplemental Indenture, among the Company, Wilmington Trust, National Association, as trustee, and HB Fund LLC, as collateral agent (as the same may be amended from time to time, the “**Supplemental Indenture**,” and the Base Indenture, as amended by the Supplemental Indenture, and as the same may be further amended or supplemented from time to time with respect to the Notes, the “**Indenture**”), dated as of [~], 2023. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee, the Collateral Agent and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Supplemental Indenture. Stated Interest on this Note will begin to accrue from, and including, [date].

2. **Maturity.** This Note will mature on October 1, 2025, unless earlier repurchased, or redeemed.

3. **Method of Payment.** Cash amounts and shares of Common Stock due on this Note will be paid in the manner set forth in Sections 2.04 and 3.01 of the Supplemental Indenture.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** Subject to the other terms of the Indenture, if a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 5.02 of the Supplemental Indenture.

7. **Right of the Holder to Redeem the Notes.** Subject to the other terms of the Indenture, each of the Company and the Holder will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 5.03 of the Indenture.

8. **When the Company May Merge, Etc.** Article 7 of the Supplemental Indenture places limited restrictions on the Company's ability to be a party to a Business Combination Event.

9. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 8 of the Supplemental Indenture.

10. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Supplemental Indenture or the Notes in the manner, and subject to the terms, set forth in Article 9 of the Supplemental Indenture.

11. **Collateral.** The obligations of the Company under the Indenture and this Note are secured by the Collateral, as set forth in the Collateral Documents. The Collateral may be released in certain circumstances set forth in Section 9.01 of the Supplemental Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Stockholders.** No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

14. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

15. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Tellurian Inc.
1201 Louisiana Street, Suite 31000
Houston, TX 77002
Attention: Legal Department

ASSIGNMENT FORM

TELLURIAN INC.

10.00% Senior Secured Notes due 2025

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name:

Address:

Social security or
tax identification
number:

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

In connection with any transfer of the within Note, the undersigned Holder confirms that the within Note is being transferred in accordance with its terms:

CHECK ONE BOX BELOW

1. to the Company;
2. pursuant to an effective registration statement under the Securities Act of 1933;
3. inside the United States to a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933;
4. pursuant to the exemption from registration provided by Rule 144 under the Securities Act of 1933; or
5. pursuant to any other exemption from registration under the Securities Act of 1933.

Unless one of the boxes is checked, the Registrar will refuse to register the within Note in the name of any person other than the registered holder thereof; *provided, however*, that the Registrar shall be entitled to require, prior to registering any such transfer of the within Note, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933, such as the exemption provided by Rule 144 under such Act.

Date: _____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: _____

Exhibit C-1
Form of Ninth Supplemental Indenture

TELLURIAN INC.
and
WILMINGTON TRUST, NATIONAL ASSOCIATION
as Trustee
and
HB FUND LLC
as Collateral Agent

EIGHTH SUPPLEMENTAL INDENTURE

Dated as of [●], 2023

10.00% Senior Secured Notes due 2025

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EIGHTH SUPPLEMENTAL INDENTURE, dated as of August [•], 2023, among Tellurian Inc., a Delaware corporation, as issuer (the “**Company**”), and Wilmington Trust, National Association, as trustee (the “**Trustee**”) and HB Fund LLC as collateral agent (the “**Collateral Agent**”).

This Supplemental Indenture (as defined below) is being executed and delivered pursuant to Sections 2.2 and 9.1(h) of the Base Indenture (as defined below) to establish the terms, and provide for the issuance, of a new series of Securities (as defined in the Base Indenture) constituting the Company’s 10.00% Senior Secured Notes due 2025 (the “**Notes**”).

Each party to this Supplemental Indenture agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Notes.

**Article 1. DEFINITIONS; RULES OF CONSTRUCTION;
SCOPE AND INTERPRETATION OF BASE INDENTURE**

Section 1.01. Definitions.

Subject to the last paragraph of **Section 1.03** and the second sentence of **Section 1.04(A)**, capitalized terms used in this Supplemental Indenture without definition have the respective meanings ascribed to them in the Base Indenture. For purposes of the Notes, the following additional definitions will apply and supersede any conflicting definitions in the Base Indenture.

“**Acceleration Amount**” means a cash amount equal to one hundred fifteen percent (115%) of the then outstanding principal amount of the applicable Note plus accrued and unpaid interest.

“**Affiliate**” means as to any Person, any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

“**Agent**” means any Registrar or Paying Agent.

“**Attribution Parties**” means with respect to any Holder, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issue Date, directly or indirectly managed or advised by such Holder’s investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of such Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a “group” (within the meaning of Section 13(d)(3) of the Exchange Act) together with such Holder or any of the foregoing and (iv) any other Persons whose beneficial ownership of the Common Stock would or could be aggregated with such Holder’s and the other Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively such Holder and all other Attribution Parties to the Maximum Percentage.

“**Authorized Denomination**” means, with respect to the Notes, a principal amount thereof equal to one thousand dollars (\$1,000) or any integral multiple of one thousand dollars (\$1,000) in excess thereof, or, if such principal amount then-outstanding is less than \$1,000, then such outstanding principal amount.

“**Bankruptcy Law**” means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

“**Base Indenture**” means that certain Indenture, dated as of June 3, 2022, between the Company and the Trustee.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

“**Business Day**” means any day other than a Saturday, a Sunday or any day on which the Federal Reserve Bank of New York or the applicable place of payment is authorized or required by law or executive order to close or be closed; provided, however, for clarification, the Federal Reserve Bank of New York or in the applicable place of payment shall not be deemed to be authorized or required by law or executive order to close or be closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of the Federal Reserve Bank of New York or in the applicable place of payment are open for use by customers on such day.

“**Capital Lease**” means, with respect to any Person, any leasing or similar arrangement conveying the right to use any property, whether real or personal property, or a combination thereof, by that Person as lessee that, in conformity with GAAP, is required to be accounted for as a capital lease on the balance sheet of such Person.

“**Capital Lease Obligation**” means, at the time any determination is to be made, the amount of the liability in respect of a Capital Lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“**Cash**” means all cash and liquid funds.

“**Cash Equivalents**” means, as of any date of determination, any of the following: (A) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (B) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor’s Corporation or at least P-1 from Moody’s Investors Service; (C) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor’s Corporation or at least P-1 from Moody’s Investors Service; (D) certificates of deposit or bankers’ acceptances maturing within one (1) year after such date and issued or accepted by any commercial bank organized under the laws of the United States of America or any State thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than one billion dollars (\$1,000,000,000); and (E) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (A) and (B) above, (ii) has net assets of not less than one billion dollars (\$1,000,000,000), and (iii) has the highest rating obtainable from either Standard & Poor’s Corporation or Moody’s Investors Service.

“**Close of Business**” means 5:00 p.m., New York City time.

“**Collateral**” means (a) the Mortgaged Property, (b) the Pledged Collateral and (c) all other property and interests in property, including cash and Cash Equivalents, and proceeds thereof now owned and hereafter acquired by a Grantor upon which a Lien is granted under any Collateral Document.

“**Collateral Agent**” means HB Fund LLC, in its capacity as Collateral Agent hereunder.

“**Collateral Documents**” means the Collateral Trust Agreement, the Pledge Agreement, the Mortgages and the Deposit Account Control Agreement.

“**Collateral Trust Agreement**” means that certain collateral trust agreement, dated August [●], 2023, between the Company, the Collateral Agent, as the Secured Parity Lien Representative, the Convertible Collateral Agent, as the Convertible Parity Lien Representative and the Collateral Trustee.

“**Collateral Trustee**” means the Person named as such pursuant to the Collateral Trust Agreement.

“**Common Stock**” means the common stock, \$0.01 par value per share, of the Company.

“**Company**” means the Person named as such in the first paragraph of this Supplemental Indenture and, subject to **Article 7**, its successors and assigns.

“**Company Order**” means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

“**Contingent Obligation**” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to, without duplication: (A) any Indebtedness or other obligations of another Person, including any such obligation directly or indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable and (B) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices, in each case, for any speculative purpose; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“**Convertible Collateral Agent**” means the “Collateral Agent” under the Convertible Notes Indenture.

“**Convertible Holders**” means the Holder as defined in the Convertible Notes.

“**Convertible Notes**” means the 6.00% Senior Secured Convertible Notes due 2025 issued by the Company pursuant to that certain Ninth Supplemental indenture, dated as of the date hereof, entered into by the Company, the Convertible Trustee and the Convertible Collateral Agent (the “**Convertible Notes Indenture**”).

“**Convertible Trustee**” means the Trustee as defined in the Convertible Notes Indenture.

“**Copyright License**” means any written agreement granting any right to use any Copyright or Copyright registration, now owneded or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

“**Copyrights**” means all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof, or of any other country.

“**Daily VWAP**” means, for any Trading Day, the per share volume-weighted average price of the Common Stock as displayed under the heading “Bloomberg VWAP” on the principal, in terms of volume, U.S. national or regional securities exchange on which the Common Stock is listed for trading, Bloomberg page “TELL <EQUITY> VAP” (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or, if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

“**Default**” means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

“**Deposit Account Control Agreement**” means, with respect to the deposit account(s) and/or securities accounts(s) established or owned by the Company, an agreement(s), in form and substance satisfactory to the Collateral Trustee in its sole discretion, establishing “control” (as defined in the UCC) of such deposit account and/or securities account by the Collateral Trustee.

“**Disqualified Stock**” means, with respect to any Person, any Equity Interests that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder) or upon the happening of any event:

(A) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise;

(B) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Equity Interests convertible or exchangeable solely at the option of the issuer or a Subsidiary; provided that any such conversion or exchange will be deemed an incurrence of Indebtedness or Disqualified Stock, as applicable); or

(C) is redeemable at the option of the holder thereof, in whole or in part,

in the case of each of clauses (A), (B) and (C), at any point prior to the ninety-first (91st) day after the Maturity Date (except, in each case, for customary mandatory prepayment or offers to prepay with proceeds of asset sales or casualty events or indebtedness not permitted thereunder or upon occurrence of a change of control).

“**Driftwood Companies**” means Driftwood LNG Holdings LLC and its Subsidiaries.

“**Driftwood Financing**” means (i) the Sale and Leaseback Transaction, (ii) all Indebtedness of any Driftwood Company and any of their Subsidiaries that is not guaranteed or secured by the Company or any of the Company’s Subsidiaries (other than the Driftwood

Companies and their Subsidiaries), (iii) all Indebtedness of Driftwood Pipeline LLC that is not guaranteed or secured by the Company or any of the Company's Subsidiaries (other than the Driftwood Pipeline LLC, Driftwood Companies and their Subsidiaries), and (iv) all unsecured Indebtedness of the Company or any its Subsidiaries (other than ProductionCo or its Subsidiaries) and all unsecured debt (including term loan, delayed draw, revolving credit, or letter of credit facilities, hedging arrangements, mezzanine and holdco financings), equity (including equity-linked) and mezzanine financing(s) of any kind entered into by the Company or any of its Subsidiaries (other than ProductionCo or its Subsidiaries) to the extent in the case of clause (iv) that (x) the proceeds of any such financing will be used for the payment of any amounts (or reimbursement thereof) for the development, construction, financing, ownership, operation or maintenance of the Driftwood Project, and any extensions, refinancings, replacements and/or renewals thereof, provided that, in each case any such Indebtedness or debt shall not have a final maturity date, amortization payment, sinking fund, put right, mandatory redemption or other repurchase obligation at the option of the lender or holder of such Indebtedness or debt, in any case earlier than one hundred eighty-one (181) days following the Maturity Date (except, in each case, for (i) customary mandatory prepayments or offers to prepay with proceeds of asset sales or casualty events or indebtedness not permitted thereunder or upon the occurrence of a change of control) and (y) neither ProductionCo nor ProductionCo's Subsidiaries may participate in or guarantee such financings; provided that, notwithstanding anything to the contrary in this definition, any Driftwood Financing may be secured by a pledge of the Equity Interests of Driftwood LNG Holdings LLC and/or Driftwood Pipeline LLC and the Contingent Obligations of any pledgor thereof (other than ProductionCo or ProductionCo's Subsidiaries) arising from such pledge in respect of the Equity Interests pledged therein shall be permitted.

"Driftwood Project" means the design, construction, financing, maintenance and operation of an LNG terminal facility and associated pipelines referred to as the Driftwood terminal, the Driftwood pipeline and other related pipelines in the Company's Annual Report on Form 10-K filed with the SEC on February 23, 2022.

"Eligible Exchange" means any of The New York Stock Exchange, NYSE American, The Nasdaq Capital Market, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors).

"Equipment" means all **"equipment"** as defined in the UCC with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"Equity Conditions" will be deemed to be satisfied as of any date if all of the following conditions are satisfied as of such date: (A) the shares issuable under this Indenture are eligible for resale under Form S-3; (B) the Holder is not in possession of any material non-public information provided by or on behalf of the Company; (C) no public announcement of a pending, proposed or intended Fundamental Change has occurred that has not been abandoned, terminated or consummated; (D) the daily dollar trading volume (as reported on Bloomberg) of the Common Stock on an Eligible Exchange is not less than ten million dollars (\$10,000,000) and (E) no Event of Default will have occurred and be continuing.

"Equity Interests" of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, including membership interests and/or limited liability company interests (however designated, whether voting or non-voting) of the equity of such Person, including, if such person is a partnership, partnership interests (whether general or limited), if such Person is a limited liability company, membership interests and/or limited liability company interests, and, if such Person is a trust, all beneficial interests therein, and shall

also include any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property of, such corporation, partnership, limited liability company or trust, whether outstanding on the date hereof or issued on or after the date hereof, excluding, in each case, any debt securities convertible into such equity.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Fundamental Change**” means any of the following events:

(A) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or the employee benefit plans of the Company or its Wholly Owned Subsidiaries, files any report with the SEC indicating that such person or group has become the direct or indirect “beneficial owner” (as defined below) of shares of the Company’s common equity representing more than fifty percent (50%) of the voting power of all of the Company’s then-outstanding common equity;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person (other than solely to one or more of the Company’s Wholly Owned Subsidiaries) (excluding, for the avoidance of doubt, any Driftwood Financing); or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property (other than a subdivision or combination, or solely a change in par value, of the Common Stock); provided, however, that any merger, consolidation, share exchange, combination or acquisition of the Company pursuant to which the Persons that directly or indirectly “beneficially own” (as defined below) all classes of the Company’s voting common equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than fifty percent (50%) of all classes of voting common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company’s stockholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) the Common Stock ceases to be listed on any Eligible Exchange;

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)(i)** or **(ii)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); and (y) whether a Person is a “beneficial owner” and whether shares are “beneficially owned” will be determined in accordance with Rule 13d-3 under the Exchange Act.

“**Fundamental Change Base Repurchase Price**” means, with respect to the Notes (or any portion of any Note) to be repurchased upon a Repurchase Upon Fundamental Change, a cash amount equal to one hundred fifteen percent (115%) of the then outstanding principal amount of the applicable Note.

“**Fundamental Change Repurchase Date**” means the date as of which any Note must be repurchased for cash in connection with a Fundamental Change, as provided in **Section 4.02**.

“**Fundamental Change Repurchase Notice**” means a notice (including a notice substantially in the form of the “Fundamental Change Repurchase Notice” set forth in **Exhibit C**) containing the information, or otherwise complying with the requirements, set forth in **Section 5.02(F)(i)** and **Section 5.02(F)(ii)**.

“**Fundamental Change Repurchase Price**” means the cash price payable by the Company to repurchase any Note (or any portion of such Note) upon a Repurchase Upon Fundamental Change, calculated pursuant to **Section 5.02(D)**.

“**GAAP**” means generally accepted accounting principles in the United States of America, as in effect from time to time; provided the definitions set forth in the Indenture or any Note and any financial calculations required thereby shall be computed to exclude any change to lease accounting rules from those in effect pursuant to Financial Accounting Standards Board Accounting Standards Codification 840 (Leases) and other related lease accounting guidance as in effect on the date hereof.

“**Grantors**” means (a) the Pledgor, (b) the Mortgagor and (c) Company in their respective capacity as a grantor of a Lien under the Deposit Account Control Agreement.

“**Holder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Indebtedness**” means indebtedness of any kind, including, without duplication (A) all indebtedness for borrowed money or the deferred purchase price of property or services (excluding trade credit entered into in the ordinary course of business due within one hundred eighty (180) days), including reimbursement and other obligations with respect to surety bonds and letters of credit, (B) all obligations evidenced by notes, bonds, debentures or similar instruments, (C) all Capital Lease Obligations, (D) all Contingent Obligations, and (E) Disqualified Stock.

“**Indenture**” means the Base Indenture, as amended by this Supplemental Indenture, and as the same may be further amended or supplemented from time to time.

“**Intellectual Property**” means all Copyrights; Trademarks; Patents; Licenses; trade secrets and inventions; mask works; applications therefor and reissues, extensions, or renewals thereof; together with all rights to sue for past, present and future infringement of Intellectual Property and the goodwill associated therewith.

“**Interest Payment Date**” means, with respect to a Note, each January 1, April 1, July 1 and October 1 of each year, commencing on October 1, 2023 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

“**Investment**” means with respect to any Person, any beneficial ownership (including stock, partnership or limited liability company interests) of or in any other Person, or any loan, advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person.

“**Issue Date**” means August [●], 2023.

“**Issuer**” means the Person named as such in the first paragraph of this Supplemental Indenture and, subject to **Article 7**, its successors and assigns.

“**Leaseback Assets**” means approximately 800 acres of land owned and/or leased by Driftwood LNG LLC, a wholly owned indirect subsidiary of the Company, to be used for the Driftwood Project.

“**License**” means any Copyright License, Patent License, Trademark License or other written license of rights or interests.

“**Lien**” means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any lease in the nature of a security interest; provided, that licenses, strain escrows and similar provisions in collaboration agreements, research and development agreements that do not create or purport to create a security interest, encumbrance, levy, lien or charge of any kind shall not be deemed to be Liens for purposes of the Notes and the Indenture.

“**Liquidity Threshold**” means the Company’s Liquidity required to be equal to or greater than (a) two hundred million dollars (\$200,000,000) (if the Convertible Notes are not outstanding at such time); and (b) two hundred and fifty million dollars (\$250,000,000) (if any of the Convertible Notes are outstanding at such time); provided that in the case of both (a) and (b), such Cash and Cash Equivalents shall be held in accounts (x) in which the Company and/or the applicable Subsidiaries have granted the Collateral Trustee a security interest in form and substance acceptable to the Collateral Trustee and (y) with a Deposit Account Control Agreement in effect with each of such accounts; provided further, that such Deposit Account Control Agreement(s) shall (I) be “fully blocked”/“access restricted” or similar Deposit Account Control Agreement(s) that do not allow the Company and its Subsidiaries access to the accounts nor permit the Company and its Subsidiaries to access the amounts and assets on deposit or credited to such deposit accounts without the consent of the Collateral Trustee (“**Blocked DACA**”) and (II) perfect the Collateral Trustee’s security interest in such accounts.

“**Mandatory Redemption**” means any Redemption pursuant to Section 5.03(B)(i).

“**Market Disruption Event**” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts traded on such exchange or market relating to the Common Stock.

“**Material Adverse Effect**” means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, (ii) the business, properties, assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of ProductionCo and its Subsidiaries, taken as a whole, (iii) the transactions contemplated hereby or in any of the other Transaction Documents or any other agreements or instruments to be entered into in connection herewith or therewith, taken as a whole, or (iv) the authority or ability of the Company or any of its Subsidiaries to perform any of their respective obligations under any of the Transaction Documents.

“**Maturity Date**” means October 1, 2025.

“**Mortgages**” shall mean a mortgage or a deed of trust, deed to secure debt, trust deed, assignment of as-extracted collateral, fixture filing or other security document entered into by the

Mortgagor and the Collateral Trustee for the benefit of the Holders, the Trustee, the Convertible Holders and the Convertible Trustee in respect to the Mortgaged Property substantially in such form as to be agreed between the Company and the Collateral Trustee.

“**Mortgaged Property**” shall mean all material real property oil and gas assets of ProductionCo described on Exhibit I of the Securities Purchase Agreement.

“**Mortgagor**” shall mean, collectively, ProductionCo and its Wholly Owned Subsidiaries in their applicable capacity as a mortgagor under the Mortgages.

“**Note Agent**” means any Registrar or Paying Agent.

“**Note Security**” means any Note.

“**Notes**” means the 10.00% Senior Secured Notes due 2025 issued by the Company pursuant to the Indenture.

“**Officer**” means the Chief Executive Officer, the President, the Chief Financial Officer, the Treasurer or any Assistant Treasurer, the Secretary or any Assistant Secretary, or any Vice-President of the Company, whether or not designated by a number or numbers or a word or words added before or after the title “Vice President”.

“**Officer’s Certificate**” means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 14.03**.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Opinion of Counsel**” means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, that meets the requirements of **Section 14.03**, subject to customary qualifications and exclusions.

“**Optional Redemption Price**” means the principal amount being redeemed, plus any accrued but unpaid interest to, but excluding, the Redemption Date.

“**Patent License**” means any written agreement granting any right with respect to any invention on which a Patent is in existence or a Patent application is pending, in which agreement the Company now holds or hereafter acquires any interest.

“**Patents**” means all letters patent of, or rights corresponding thereto, in the United States or in any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto, in the United States or any other country.

“**Permitted Company Expenditures**” means dispositions, transfers and payments by the Company to satisfy payment obligations pursuant to Permitted Indebtedness incurred by the Company and general and operating expenses of the Company or Tellurian Investments LLC or its Subsidiaries.

“**Permitted Indebtedness**” means (A) Indebtedness evidenced by any Note or the Convertible Notes; (B) Indebtedness disclosed pursuant to the Securities Purchase Agreement, as in effect as of the Issue Date; (C) any Indebtedness constituting any Driftwood Financing; (D) Indebtedness to trade creditors incurred by the Company or any Subsidiary in the ordinary course of business, including Indebtedness incurred in the ordinary course of business with corporate credit cards; (E) Indebtedness that also constitutes a Permitted Investment; (F) (i) undrawn obligations in respect of letters of credit or similar instruments in the ordinary course of business

and (ii) reimbursement obligations in connection with letters of credit or similar instruments that are secured by Cash or Cash Equivalents and issued on behalf of the Company or any Subsidiary so long as any such Cash or Cash Equivalents are reflected as restricted on the consolidated balance sheet of the Company, prepared in accordance with GAAP; (G) Indebtedness amongst the Company and its Subsidiaries (other than Indebtedness owed by (i) ProductionCo or one of its Subsidiaries to (ii) the Company or any of its other Subsidiaries); provided that any such Indebtedness owing by the Company or the Driftwood Companies to a Subsidiary that is not the Company, the Driftwood Companies, ProductionCo or a Wholly Owned Subsidiary of ProductionCo will be subordinated to the Indebtedness in respect of the Notes; (H) purchase money and Capital Lease Obligations in an aggregate principal amount not to exceed ten million dollars (\$10,000,000) at any time outstanding; (I) Indebtedness in respect of the financing of insurance premiums payable within one year incurred in the ordinary course of business; (J) to the extent constituting Indebtedness, indemnification, adjustment of purchase price, earnout, escrow or similar obligations, in each case, incurred or assumed in connection with any acquisition or disposition not prohibited hereunder; (K) to the extent constituting Indebtedness, obligations associated with worker's compensation claims, performance, bid, surety or similar bonds or surety obligations required by applicable law or by third parties in the ordinary course of the business of ProductionCo and its Subsidiaries in connection with the operation of, or provision for the abandonment and remediation of, their properties; (L) Contingent Obligations that are guarantees of Indebtedness described in clauses (A) through (K); (M) Indebtedness due to a draft or similar instrument inadvertently drawn against insufficient funds; provided, however, that such Indebtedness is extinguished within five (5) Business Days of incurrence; (N) obligations in respect of minimum volume commitments or to make take-or-pay or similar payments (regardless of nonperformance); (O) Indebtedness of any Person outstanding on the date that such Person becomes a Subsidiary of the Company (whether by acquisition, merger, consolidation or otherwise) and not incurred in contemplation thereof; (P) other Indebtedness in an aggregate principal amount not to exceed twenty-five million dollars (\$25,000,000) at any time, provided that such Indebtedness is not incurred or guaranteed by, or otherwise recourse to, ProductionCo or its Subsidiaries; and (Q) extensions, refinancings, replacements and/or renewals of any items of Permitted Indebtedness (other than any Indebtedness repaid with the proceeds of the Notes), provided that, other than with respect to any Driftwood Financing, (1) the principal amount is not increased above the then-outstanding principal (or accreted value, in the case of Indebtedness issued with original issue discount) thereof (including undrawn or available committed amounts), plus an amount necessary to pay all accrued (including, for purposes of defeasance, future accrued) and unpaid interest of the refinanced Indebtedness and any fees, premiums and expenses related to such exchange or refinancing or (2) the terms are not modified to impose materially more burdensome terms, taken as a whole, upon the Company or its Subsidiaries, as the case may be, and provided further, other than with respect to any Driftwood Financing, that if the lender of any such proposed extension, refinancing or renewal of Permitted Indebtedness incurred hereunder is different from the lender of the Permitted Indebtedness to be so extended, refinanced or renewed then, in addition to the foregoing proviso, such Permitted Indebtedness shall also not have a final maturity date, amortization payment, sinking fund, put right, mandatory redemption or other repurchase obligation at the option of the lender or holder of such Indebtedness, or be prepayable at the option of the Company or its Subsidiaries (as applicable), in any case earlier than ninety-one (91) days following the Maturity Date (except, in each case, for (A) customary mandatory prepayments or offers to prepay with proceeds of asset sales or casualty events or indebtedness not permitted thereunder or upon the occurrence of a change of control and (B) scheduled amortization no greater than 5% of the original principal amount of such Indebtedness per year) and any mandatory prepayments under any Driftwood Financing (any extensions, refinancings, replacements and/or renewals described in this clause (Q), "**Permitted Refinancing Indebtedness**").

"**Permitted Intellectual Property Licenses**" means agreements relating to Intellectual Property (A) licenses rights or other rights to use in existence at the Issue Date and (B) non-

exclusive license rights granted or other rights to use in the ordinary course of business which may include licenses with unlimited renewal options solely to the extent such options require mutual consent for renewal or are subject to financial or other conditions as to the ability of licensee to perform under the license.

“Permitted Investment” means any Investments, (i) so long as any such Investments made in connection with ProductionCo Operations must be made by ProductionCo or the Subsidiaries of ProductionCo and (ii) to the extent not otherwise included within the definition of ProductionCo Operations, any direct or indirect Investments in additional oil and gas and related upstream properties or interests, other hydrogen and mineral interests and gas gathering systems related thereto or related to farm-out, farm-in, joint operating, joint venture or area of mutual interest agreements, gathering systems, pipelines or other similar arrangements which are usual and customary in the oil and gas exploration and production business located within the geographic boundaries of the United States of America must be made by ProductionCo or its Subsidiaries.

“Permitted Liens” means, any and all of the following: (A) Liens in favor of the Holders, the Trustee, the Collateral Trustee, the Convertible Holders or the Convertible Trustee; (B) Liens disclosed pursuant to the Securities Purchase Agreement, as in effect as of the Issue Date; (C) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings; provided, that the Company maintains adequate reserves therefor in accordance with GAAP; (D) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords, operators’, royalty, surface damages and other like Persons arising in the ordinary course of business, including Liens under operating agreements, joint venture agreements, oil and gas partnership agreements, oil and gas leases, farm-out agreements, division orders, contracts for the disposition, transportation or exchange of oil and natural gas, unitization and pooling declarations and agreements, area of mutual interest agreements, overriding royalty agreements, gathering agreements, marketing agreements, processing agreements, net profits agreements, development agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or other geophysical permits or agreements; provided, that the payment thereof is not more than 90 days past due or which are being contested in good faith by appropriate proceedings; (E) Liens arising from judgments, decrees or attachments in circumstances which do not constitute a Default or an Event of Default hereunder; (F) the following deposits, to the extent made in the ordinary course of business: deposits under workers’ compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than Liens arising under ERISA or environmental Liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds; (G) Liens on Equipment or software or other intellectual property or fixed or capital assets constituting purchase money Liens and Liens in connection with Capital Leases securing Indebtedness permitted in clause (H) of “Permitted Indebtedness”; (H) leasehold interests in leases or subleases and licenses granted in the ordinary course of the Company’s business and Permitted Intellectual Property Licenses; (I) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due; (J) Liens on insurance proceeds securing the payment of financed insurance premiums that are promptly paid on or before the date they become due (provided that such Liens extend only to such insurance proceeds and not to any other property or assets); (K) statutory and common law rights of set-off and other similar rights as to deposits of cash and securities in favor of banks, other depository institutions and brokerage firms; (L) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or

marketability of the related property; (M) Liens on Cash or Cash Equivalents securing obligations permitted under clauses (D), (F) and (J) of the definition of “Permitted Indebtedness”; (N) a Lien securing Indebtedness permitted under clause (C) of the definition of “Permitted Indebtedness”, provided that the assets securing such Liens are assets or equity of a Driftwood Company or Driftwood Pipeline LLC; (O) other Liens securing obligations owed by, or on assets owned by, the Company or its Subsidiaries other than ProductionCo or its Subsidiaries in an aggregate principal amount not to exceed twenty-five million dollars (\$25,000,000) at any time; provided that no such Liens shall be on the assets of ProductionCo or its Subsidiaries; (P) Liens on the assets of any Person in existence on the date that such Person becomes a Subsidiary of the Company (whether by acquisition, merger, consolidation or otherwise) and not created in contemplation thereof; and (Q) Liens incurred in connection with the extension, renewal, replacement or refinancing of the Indebtedness secured by Liens of the type described in clauses (A) through (N) above (other than any Indebtedness repaid with the proceeds of the Notes); provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien (plus improvements, proceeds and products thereof), provided, however, that other than Liens specified in clauses (A) and (B), no Lien shall qualify as a Permitted Lien if any Collateral secures such Lien and such Lien is not in favor of the Holders.

“Permitted Restricted Payments” means, with respect to any Person, any of the following: (A) repurchases, redemptions, dividends or distributions (other than repurchases or redemptions by ProductionCo while the Pledged Collateral remains subject to the Liens created by the Pledge Agreement) made in the form of the Equity Interests of such Person; (B) payment in lieu of fractional shares of the Equity Interests of such Person in connection with any dividend, split, or combination thereof or any Fundamental Change not prohibited hereby; (C) payments made or expected to be made in respect of withholding or similar taxes payable upon exercise of the Equity Interests of such Person by any future, present or former employee, director, officer, manager or consultant (or their respective controlled Affiliates or permitted transferees), and any repurchases of such Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represents a portion of the exercise price of such options or warrants or required withholding or similar taxes; (D) repurchases, redemptions, dividends or distributions in accordance with incentive compensation plans approved by such Person’s Board of Directors (or equivalent governing body); (E) dividends or distributions by (x) a Wholly Owned Subsidiary of ProductionCo to ProductionCo or one its other Wholly Owned Subsidiaries, (y) ProductionCo, directly or indirectly, to the Company to fund Permitted Company Expenditures and Permitted Investments, and (z) among the Company and its Subsidiaries (other than ProductionCo and its Wholly Owned Subsidiaries); (F) repurchases or redemptions of any class of Equity Interests pursuant to employee, director or consultant repurchase plans or other similar agreements approved by the Board of Directors; (G) other repurchases, redemptions, dividends or distributions effected by the Company or its Subsidiaries other than ProductionCo or its Subsidiaries in an aggregate principal amount not to exceed twenty-five million dollars (\$25,000,000); (H) dividends or distributions by any Driftwood Company to any other Driftwood Company and (I) to the extent constituting a repurchase, redemption or distribution, conversion (at the conversion price in effect as of the date hereof) of the series C preferred shares of the Company held by Bechtel Oil, Gas and Chemicals, Inc. into shares of Common Stock, provided that, notwithstanding the foregoing, none of the foregoing transactions shall qualify as a Permitted Restricted Payment if such transaction would effect a transfer of Collateral to any Person other than to the Pledgor in respect of the Pledge Agreement at the applicable time.

“Permitted Transfers” means (A) dispositions of inventory sold, and Permitted Intellectual Property Licenses entered into, in each case, in the ordinary course of business, (B) dispositions of damaged, worn-out, obsolete or surplus property in the ordinary course of business; (C) dispositions of accounts or payment intangibles (each as defined in the UCC)

resulting from the compromise or settlement thereof in the ordinary course of business for less than the full amount thereof; (D) transfers consisting of Permitted Indebtedness under clause (G) of the definition of “Permitted Indebtedness”; (E) other dispositions or transfers of assets to any Person which have an aggregate fair market value of not more than two million five hundred thousand dollars (\$2,500,000) in the aggregate in any fiscal year; (F) dispositions or other transfers (w) among ProductionCo and Wholly Owned Subsidiaries of ProductionCo, (x) among the Driftwood Companies and Subsidiaries of the Driftwood Companies, (y) from the Company or any of its Subsidiaries other than those referred to in subclauses (w) and (x) to the Subsidiaries referred to in subclauses (w) and (x), and (z) amongst the Company and its Subsidiaries, other than those referred to in subclauses (w) and (x); (G) any Sale and Leaseback Transaction; (H) dispositions or other transfers for easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or marketability of the related property; (I) to the extent constituting a disposition, any lease or sublease in the ordinary course of business; and (J) transfers consisting of Permitted Restricted Payments, provided that, notwithstanding the foregoing, none of the foregoing transfers or dispositions shall qualify as a Permitted Transfer if such transfer or disposition would effect a transfer of Collateral to any Person other than to a Grantor in respect of the Pledge Agreement at the applicable time.

“**Person**” or “**person**” means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

“**Physical Note**” means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

“**Pledge Agreement**” means that certain Pledge Agreement, dated August [●], 2023, between the Tellurian Investments LLC (together with its successors and permitted assigns, the “**Pledgor**”) and the Collateral Trustee (as it may otherwise be amended, modified or supplemented in accordance with **Section 3.25(B)** or replaced with any new pledge agreement in substantially the same form with respect to the Pledged Collateral pursuant to **Section 3.25(B)**).

“**Pledged Collateral**” has the meaning set forth in the Pledge Agreement.

“**Pledgor**” has the meaning given such term in the definition of “Pledge Agreement”.

“**ProductionCo**” means Tellurian Production Holdings LLC, a Delaware limited liability company.

“**ProductionCo Operations**” means the exploration, drilling and extraction of natural gas and related and resulting products by ProductionCo and its Wholly Owned Subsidiaries.

“**Redemption**” means the repurchase of any Note by the Company pursuant to **Section 5.03**.

“**Redemption Date**” means (x) the date fixed, pursuant to **Section 5.03(D)**, for the settlement of the repurchase of any Notes by the Company pursuant to an Optional Redemption and (y) means on or after October 1, 2024 in the case of a Redemption pursuant to **Section 5.03(B)(i)**.

“**Redemption Price**” means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 5.03(E)**.

“**Regular Record Date**” has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on January 1, the immediately preceding December 15; (B) if such Interest Payment Date occurs on April 1, the immediately preceding March 15; (C) if such Interest Payment Date occurs on July 1, the immediately preceding June 15; and (D) if such Interest Payment Date occurs on October 1, the immediately preceding September 15.

“**Repurchase Upon Fundamental Change**” means the repurchase of any Note by the Company pursuant to **Section 5.02**.

“**Required Holders**” means the holders of Notes representing at least a majority of the aggregate principal amount of the Notes then outstanding.

“**Responsible Officer**” means (A) any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of such officers; and (B) with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject and, in each case, has direct responsibility for the administration of the Indenture.

“**Rule 144**” means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

“**Sale and Leaseback Transaction**” means the sale and leaseback transaction in connection with the Leaseback Assets contemplated by that certain commitment letter, dated as of July 18, 2023, between the Company and Blue Owl Real Estate Capital LLC or any other similarly-structured sale and leaseback transaction solely with respect to the same Leaseback Assets contemplated by such commitment letter (and specifically excluding any transaction involving any assets of ProductionCo or its Subsidiaries).

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Secured Obligations**” (i) all unpaid principal of and interest on (including, without limitation, interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to the Issuer, to the extent allowed by applicable law, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Notes or Convertible Notes, as applicable, and all other obligations and liabilities owed by the Issuer pursuant to the Notes and the Indenture, or the Convertible Notes and the Convertible Notes Indenture, respectively, including (without limitation) any premium (if any) on all amounts owed by the Issuer under the Notes and the Indenture or the Convertible Notes and the Convertible Notes Indenture, respectively, including without limitation, redemption amounts under the Notes or Convertible Notes, respectively, and (ii) fees, expenses and disbursements that are required to be paid by the Issuer under the Notes, Convertible Notes, the Indenture and the Convertible Notes Indenture.

“**Secured Parity Lien Representative**” means the Collateral Agent, acting as the Secured Parity Lien Representative under the Collateral Trust Agreement and any successor or assign appointed by the terms of this Indenture.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securities Purchase Agreement**” means that certain Securities Purchase Agreement, dated as of August 8, 2023, between the Company and certain initial holders of the Notes.

“**Significant Subsidiary**” means, with respect to any Person, any Subsidiary of such Person that constitutes a “significant subsidiary” (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person, provided that, notwithstanding the foregoing, ProductionCo or any Wholly Owned Subsidiary of ProductionCo shall be deemed a Significant Subsidiary at all times for the purposes hereof.

“**Subordinated Indebtedness**” means Indebtedness subordinated to the Notes pursuant to a written agreement between the Required Holders and the applicable lender in amounts and on terms and conditions satisfactory to the Required Holders in their sole discretion.

“**Subsidiary**” means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Equity Interests entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Supplemental Indenture**” means this Eighth Supplemental Indenture, as amended or supplemented from time to time.

“**Trademark License**” means any written agreement granting any right to use any Trademark or Trademark registration, now owned or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

“**Trademarks**” means all trademarks (registered, common law or otherwise) and any applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof.

“**Trading Day**” means any day on which (A) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal, in terms of volume, U.S. national or regional securities exchange on which the Common Stock is listed for trading; and (B) there is no Market Disruption Event; provided that the Holder, by written notice to the Company, may waive any such Market Disruption Event. If the Common Stock is not so listed or traded, then “Trading Day” means a Business Day.

“**Transaction Documents**” means, collectively, the Notes, the Indenture, the Convertible Notes Indenture, the Convertible Notes and the Collateral Documents.

“**Transfer Restricted Security**” means any Note that bears or is required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in Section 2.09.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended.

“**Trustee**” means the Person named as such in the first paragraph of this Supplemental Indenture, in its capacity as such, until a successor replaces it in accordance with the provisions of the Indenture and, thereafter, means such successor trustee.

“**UCC**” or “**Uniform Commercial Code**” means the Uniform Commercial Code of the State of New York or of any other state the laws of which are required to be applied in connection with the creation, perfection or priority of security interests in any Collateral or as otherwise may be required to apply to any asset.

“**Wholly Owned Subsidiary**” of a Person means any Subsidiary of such Person all of the outstanding Equity Interests or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 1.02. Other Definitions.

Term	Defined in Section
“Accelerated Stock Shortfall Payment Date”	3.01(G)
“Blocked DACA”	Definitions
“Business Combination Event”	6.01(A)
“Buy-In”	3.01(E)
“Certain Company Events”	3.01(D)
“Convertible Notes Indenture”	Definitions
“Default Interest”	2.05(B)
“Event of Default”	7.01(A)
“Excess Shares”	5.01(A)
“Fundamental Change Notice”	4.02(E)
“Fundamental Change Repurchase Right”	4.02(A)
“HSR Act”	5.01(C)
“Initial Notes”	2.03
“Liquidity”	4.14
“Make-Whole Payment”	3.01(H)
“Maximum Percentage”	5.01(A)
“Optional Acceleration Notice”	7.02(B)
“Optional Redemption”	4.03(B)(ii)
“Optional Redemption Notice”	4.03(F)(ii)
“Paying Agent”	2.06(A)
“Permitted Refinancing Indebtedness”	definition of Permitted Indebtedness
“Redemption Notice”	5.03(F)
“Register”	2.06(B)
“Registrar”	2.06(A)
“Reported Outstanding Share Number”	6.01(A)
“Required Reserve Amount”	3.01(F)
“Share Issuance Date”	3.01(A)
“Specified Courts”	13.07
“Stated Interest”	2.05(A)
“Stock Shortfall”	3.01(G)
“Stock Shortfall Period”	3.01(G)
“Successor Entity”	7.01(A)(i)
“Undelivered Shares”	3.01(E)

Section 1.03. Rules of Construction.

For purposes of the Indenture:

- (A) “or” is not exclusive;
- (B) “including” means “including without limitation”;
- (C) “will” expresses a command;
- (D) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;
- (E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a

series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) “herein,” “hereof” and other words of similar import refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision of this Supplemental Indenture, unless the context requires otherwise;

(H) each Article, Section, clause or paragraph reference in this Supplemental Indenture that is in bolded typeface refers to the referenced Article, Section, clause or paragraph, as applicable, of this Supplemental Indenture;

(I) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(J) the exhibits, schedules and other attachments to this Supplemental Indenture are deemed to form part of this Supplemental Indenture;

(K) the term “**interest**,” when used with respect to a Note, includes any Default Interest, unless the context requires otherwise;

(L) any reference to a law, enactment or regulation shall include reference to any subordinate law, decree, resolution, order, or the like made under the relevant enactment or regulation and is a reference to that enactment, regulation, or subordinate law, decree, resolution, order, or the like as from time to time amended, consolidated, modified, re-enacted, or replaced;

(M) all references to any agreement or contract, including this Supplemental Indenture, shall be interpreted to mean such agreement or contract, as amended, modified, or supplemented in accordance with its terms from time to time;

(N) it is understood and agreed that any Indebtedness, Liens, Investment, dividends, repurchases, repayments, disposition or transfer, or any transaction with an Affiliate need not be permitted solely by reference to one category of Permitted Indebtedness, Permitted Lien, Permitted Investment, Permitted Restricted Payment or Permitted Transfer or any permitted transaction with an Affiliate under **Article 3** or the definitions of “Permitted Indebtedness,” “Permitted Liens,” “Permitted Investment,” “Permitted Restricted Payment” or “Permitted Transfer”, as applicable, but may instead be permitted in part under any combination thereof (it being understood that the Company may utilize amounts under any applicable category). For purposes of determining compliance at any time with **Article 3** or the definitions of “Permitted Indebtedness,” “Permitted Liens,” “Permitted Investment,” “Permitted Restricted Payment” or “Permitted Transfer”, in the event that any such permitted transaction meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such **Article 3** or the definitions of “Permitted Indebtedness,” “Permitted Liens,” “Permitted Investment,” “Permitted Restricted Payment” or “Permitted Transfer”, the Company, in its sole discretion, may, from time to time, classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category; and

(O) this Indenture shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

For purposes of the Indenture, the following terms of the Trust Indenture Act have the following meanings:

- (i) “**Commission**” means the SEC;
- (ii) “**default**” means “Event of Default”
- (ii) “**indenture securities**” means the Notes;
- (iii) “**indenture security holder**” means a Holder;
- (iv) “**indenture to be qualified**” means the Indenture;
- (v) “**indenture trustee**” or “**institutional trustee**” means the Trustee; and
- (vi) “**obligor**” on the indenture securities means the Company.

All other terms used in the Indenture that are defined by the Trust Indenture Act (including by reference to another statute) or the related rules of the SEC, and not defined in the Indenture, have the respective meanings so defined by the Trust Indenture Act or such rules.

Section 1.04. Interpretation; Scope of Supplemental Indenture; Supersession of Base Indenture.

(A) *Generally.* The amendments to the Base Indenture made by this Supplemental Indenture will apply solely with respect to the Notes and not with respect to any other class or series of Securities. For purposes of the Notes, if any provision of this Supplemental Indenture conflicts with any provision of the Base Indenture, then this Supplemental Indenture will control to the extent of such conflict.

(B) *Applicability of Base Indenture.* For purposes of the Notes,

- (i) Sections 2.3 through 2.15, inclusive, of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with the corresponding provisions of **Article 2**;
- (ii) Articles III and XI of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 5**;
- (iii) Article IV of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 4**;
- (iv) Article V of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 7**;
- (v) Article VI of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 8**;
- (vi) Article VIII of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 10**;
- (vii) Article IX of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 9**;

(viii) Section 7.5 of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Section 8.12**;

(ix) Article VII (except for Section 7.5, as amended herein) of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 12**; and

(x) Sections 10.1, 10.2, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13 and 10.14 will not apply to the Notes and will instead be deemed to be replaced with **Sections 14.17, 14.01, 14.02, 14.03, 14.04, 2.05(C), 14.05, 14.14, 14.06, 14.08, 14.09, 14.13 and 14.15**, respectively.

Each reference in the Base Indenture to any Articles or Sections of the Base Indenture referred to in the preceding **clauses (i) through (x)**, inclusive, of this **Section 1.04(B)** will, for purposes of the Notes, be deemed instead to be a reference to the respective Articles and Sections (or corresponding part of the respective Articles or Sections) of this Supplemental Indenture referred to in such **clauses**.

Article 2. THE NOTES

Section 2.01. Form, Dating and Denominations.

The Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule. Each Note will be dated as of the date of its authentication.

The Notes will be issued in the form of one or more Physical Notes.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of the Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Supplemental Indenture, agree to such terms and to be bound thereby; *provided, however*, that, to the extent that any provision of any Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control for purposes of the Indenture and such Note.

Section 2.02. Execution, Authentication and Delivery.

(A) *Due Execution by the Company.* At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, facsimile or other electronic signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) *Authentication by the Trustee and Delivery.*

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name and address of the Holder of such Note and the date as of which such Note is to be authenticated; and (c) the delivery address indicating where such Note should be delivered.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under the Indenture, and a Note authenticated as provided in the Indenture by such an agent will be deemed, for purposes of the Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. Initial Notes.

On the Issue Date, there will be originally issued two hundred and fifty million dollars (\$250,000,000) aggregate principal amount of Notes, subject to the provisions of the Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in the Indenture as the “**Initial Notes**.”

Section 2.04. Method of Payment.

(A) [RESERVED]

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on the Redemption Date or repurchase on a Fundamental Change Repurchase Date, pursuant to an Optional Acceleration Notice or otherwise) of, interest on any Physical Note no later than the time the same is due as provided in the Indenture as follows: (i) if the principal amount of such Physical Note is at least ten thousand dollars (\$10,000) (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Physical Note entitled to such payment has delivered to the Paying Agent or the Trustee, no later than the time set forth in the immediately following sentence, a written request that the Company make such payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and (ii) in all other cases, by check mailed to the address of the Holder of such Physical Note entitled to such payment as set forth in the Register. To be timely, such written request must be so delivered no later than the Close of Business on the following date: (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Regular Record Date and (y) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due.

Section 2.05. Accrual of Interest; Default Interest; When Payment Date is Not a Business Day.

(A) *Accrual of Interest*. Each Note will accrue interest at a rate per annum equal to 10.00% (the “**Stated Interest**”), plus any Default Interest that may accrue pursuant to **Section 2.05(B)**. Stated Interest on each Note will (i) accrue on the principal amount of each Note; (ii) accrue from, and including, the most recent date to which Stated Interest has been paid or duly

provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the Issue Date) to, but excluding, the date of payment of such Stated Interest; (iii) be paid to Holder in cash, subject to **Sections 5.02(D)** and 5.03(E) (but without duplication of any payment of interest), quarterly in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date and (iv) be computed on the basis of a 360-day year comprised of twelve 30-day months. Notwithstanding the foregoing, no amount of Stated Interest in excess of the maximum amount permitted by applicable law shall be due and payable under this Indenture or the Notes.

(B) *Default Interest.* If an Event of Default occurs, then, in each case, to the extent lawful, interest (“**Default Interest**”) will accrue on the principal amount then outstanding at a rate per annum equal to seventeen percent (17.0%), from, and including, the date of such Event of Default, to, but excluding, the date such Event of Default is cured or waived and all outstanding Default Interest has been paid. Default Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months and, subject to **Sections 5.02(D)** and **5.03(E)**, will be payable in arrears on the earlier of (i) the first day of each calendar month and (ii) the date such Event of Default is cured or waived. Notwithstanding the foregoing, no amount of Default Interest in excess of the maximum amount permitted by applicable law shall be due and payable under this Indenture or the Notes. The Company may pay the Default Interest to the Persons who are Holders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date (which special record date shall not be less than 10 days prior to the related payment date) and shall promptly mail to each Holder a notice that states the special record date, the payment date and the amount of Default Interest to be paid.

(C) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on a Note as provided in the Indenture is not a Business Day, then, notwithstanding anything to the contrary in the Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay.

(D) *Classification of Interest Payments.* Unless the context otherwise requires, all references herein to interest, whether accrued or paid, shall refer to cash interest in respect of the Notes, it being understood that Common Stock issued to the Holders pursuant to **Section 3.01** shall be classified as interest payments for tax purposes.

Section 2.06. Registrar and Paying Agent

(A) *Generally.* The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the “**Registrar**”) and (ii) an office or agency in the continental United States where Notes may be presented for payment (the “**Paying Agent**”). If the Company fails to maintain a Registrar or Paying Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar or Paying Agent.

(B) *Duties of the Registrar.* The Registrar will keep a record (the “**Register**”) of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase and Redemption of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars and Paying Agents.* The Company may appoint one or more co-Registrars and co-Paying Agents, each of whom will be deemed to be a Registrar or Paying Agent, as applicable, under the Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar or Paying Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to the Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of the Indenture that relate to such Note Agent.

(D) *Initial Appointments.* The Company appoints the Trustee as the initial Paying Agent and the initial Registrar. None of the Trustee, the Paying Agent or the Registrar shall be deemed an agent for the Company for purposes of service of legal process.

Section 2.07. Paying Agent to Hold Property in Trust.

The Company will require each Paying Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee in writing of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent; and (B) references in the Indenture or the Notes to the Paying Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **clause (ix) or (x) of Section 8.01(A)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent), the Trustee will serve as the Paying Agent for the Notes. Notwithstanding anything to the contrary set forth herein, Trustee shall have no obligation to hold or deliver shares of Common Stock. Any delivery of shares of Common Stock (including any delivery of Common Stock in connection with the enforcement of remedies), shall be made by the Company directly to the Holders through its stock transfer agent and the Trustee shall have no involvement in such delivery.

Section 2.08. Holder Lists.

If the Trustee is not the Registrar, the Company will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

Section 2.09. Legends.

(A) *Legends.*

(i) Except as permitted by the following paragraph (ii), each certificate evidencing the Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form:

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF TELLURIAN INC., A DELAWARE CORPORATION, THAT (A) THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (III) PURSUANT TO ANY OTHER EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (IV) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

Each definitive Note shall also bear the following additional legend:

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

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

(B) *Other Legends.* A Note may bear any other legend or text, not inconsistent with the Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(C) *Acknowledgement and Agreement by the Holders.* A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgement of, and agreement to comply with, the restrictions set forth in such legend.

Section 2.10. Transfers and Exchanges; Certain Transfer Restrictions.

(A) *Provisions Applicable to All Transfers and Exchanges.*

(i) Subject to this **Section 2.10**, Physical Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with the Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under the Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer or exchange of Notes, but the Company, the Trustee and the Registrar may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer or exchange of Notes, other than exchanges pursuant to **Section 2.11, 2.16 or 8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in the Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under the Indenture or applicable law with respect to any Note Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by the Indenture and to examine the same to determine substantial compliance as to form with the requirements of the Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of the Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(B) [RESERVED].

(C) *Transfers and Exchanges of Physical Notes.*

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); and (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; *provided, however*, that, to effect any such transfer or exchange, such Holder must surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar.

(ii) Upon the satisfaction of the requirements of the Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the

“old Physical Note” for purposes of this **Section 2.10(C)(ii)** of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

- (1) such old Physical Note will be promptly cancelled pursuant to **Section 2.14**;
- (2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**;
- (3) in the case of a transfer:
 - (a) [RESERVED]
 - (b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and
- (4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Transfers of Notes Subject to Redemption or Repurchase.* Notwithstanding anything to the contrary in the Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) [reserved]; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 5.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice or Optional Redemption Notice, as applicable, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the Redemption Price or Optional Redemption Price, as applicable, when due.

Section 2.11. Exchange and Cancellation of Notes to Be Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.

(A) *Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption.* If only a portion of a Physical Note of a Holder is to be repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such repurchase, the

Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be repurchased, which Physical Note will be repurchased, pursuant to the terms of the Indenture; *provided, however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such repurchase, is deemed to cease to be outstanding pursuant to **Section 2.17**.

(B) *Cancellation of Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.*

(i) *Physical Notes.* If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.17** and the time such Physical Note is surrendered for such repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.14**; and (2) in the case of a partial repurchase, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so repurchased; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) [RESERVED].

Section 2.12. Replacement Notes.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and upon receipt of a Company Order the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss, claim, cost or liability that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.12** will be an additional obligation of the Company and will be entitled to all of the benefits of the Indenture equally and ratably with all other Notes issued under the Indenture.

Section 2.13. Registered Holders.

Only the Holder of a Note will have rights under the Indenture as the owner of such Note.

Section 2.14. Cancellation.

Without limiting the generality of **Section 4.06**, the Company may at any time deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange or payment. Upon written

instruction from the Company, the Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. The Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange or payment.

Section 2.15. Notes Held by the Company or its Affiliates.

Without limiting the generality of **Sections 4.06** and **2.17**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates will be deemed not to be outstanding; *provided, however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned will be so disregarded.

Section 2.16. Temporary Notes.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and upon receipt of a Company Order the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under the Indenture as definitive Notes.

Section 2.17. Outstanding Notes.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.14**; (ii) paid in full in accordance with the Indenture; or (iii) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B), (C) or (D)** of this **Section 2.17**.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.12**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a “*bona fide* purchaser” under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase*. If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price or Optional Redemption Price, as applicable, the Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Sections 5.02(D)** or **5.03(E)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, the Optional Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in the Indenture.

(D) [Reserved].

(E) *Cessation of Accrual of Interest.* Except as provided in **Sections 5.02(D)** or **5.03(E)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.17**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.18. Repurchases by the Company.

Without limiting the generality of **Sections 2.14** and **4.06**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders.

Section 2.19. CUSIP and ISIN Numbers.

The Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided, however*, that (i) the Trustee is not liable for CUSIP numbers printed on any Security, notice or elsewhere (ii) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (iii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee of any change in the CUSIP or ISIN number(s) identifying any Notes.

Section 2.20. Trustee Not Responsible for Securities Laws.

Notwithstanding anything herein to the contrary, neither the Trustee nor the Registrar shall be responsible for ascertaining whether any transfer complies with the registration provisions of or exemptions from the Securities Act, applicable state securities laws or other applicable laws.

Article 3. COMMON STOCK

Section 3.01. Issuance of Common Stock.

(A) *Issuance of Common Stock.* On each issuance date on **Exhibit G** attached hereto (each such issuance date, a “**Share Issuance Date**” and together, the “**Share Issuance Dates**”) and in the amount detailed on Exhibit G, without any action on the part of the Holder or the Trustee, the Company shall issue to the Holder the number of full shares of Common Stock to which he, she or it is entitled, registered in such name or names as may be directed by him, her or it and issue to the Holder a certificate or book-entry position for such shares. No additional consideration shall be paid by the Holder in order to receive his, her or its Common Stock on each Share Issuance Date. If there is more than one Holder on the Share Issuance Date, the amount detailed on **Exhibit G** will be issued to the Holders of the Notes in a *pro rata* manner among all such Holders based on the percentage of then outstanding principal amount of the Notes held by each such Holder.

(B) *Date of Issuance.* Each person in whose name any such certificate or book-entry position for shares of Common Stock is issued shall for all purposes be deemed to have become the holder of record of such shares of Common Stock on each Share Issuance Date, irrespective of the date of delivery of such certificate or entry of such book-entry position.

(C) *Delay of Issuance when Share Issuance Date is Not a Trading Day.* If a Share Issuance Date is not a Trading Day, then, notwithstanding anything to the contrary in this

Indenture, such issuance shall be made on the immediately following Trading Day and no liquidated damages shall accrue on such amount as a result of the related delay.

(D) *Certain Company Events.* Upon (i) a stock split, reverse stock split, stock dividend, exchange of shares, reclassification or recapitalization occurring on or after the date hereof and on each subsequent occurrence, (ii) a reorganization, liquidation, dissolution, winding up, combination, or merger of the Company occurring on or after the date hereof and on each subsequent occurrence, (iii) the declaration or making of any dividend or other distribution of the Company's assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property, options, evidence of indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) or (iv) other event in which the Common Stock is converted into other securities, rights or property (each of (i) through (iv), "**Certain Company Events**"), the Holder shall receive (x) the same per share consideration that the holders of Common Stock received or will receive in connection with such Certain Company Events for the number of shares the Holder is entitled to pursuant to **Section 3.01(A)** above and (y) the same kind and amount of consideration for all other events that the holders of Common Stock received or will receive in connection with such Certain Company Events (including for the avoidance of doubt, for such shares the Holder is entitled to but has not yet received). If an event or circumstance would render the Holder unable to receive the shares of Common Stock it is entitled to receive on each Share Issuance Date, the Company shall, if permitted under applicable law, issue, without any action on the part of the Holder, the number of shares the Holder is entitled pursuant to **Section 3.01(A)** above before giving effect to such event or circumstance. Notwithstanding anything to the contrary herein, this **Section 3.01(D)** shall apply to all unissued shares of Common Stock detailed on **Exhibit G**.

(E) *Buy-In and Liquidated Damages.* If the Company shall fail for any reason or for no reason to issue shares of Common Stock to the Holder on the applicable Share Issuance Date (such shares to which the Holder is entitled being referred to as the "**Undelivered Shares**") in breach of this Indenture, then, in addition to all other remedies available to the Holder, if at or prior to the applicable Share Issuance Date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Undelivered Shares which the Holder anticipated receiving upon pursuant to this **Section 3.01** (a "**Buy-In**"), then the Company shall, within five (5) Trading Days after the Holder's request, (i) pay in cash to the Holder the amount, if any, by which (A) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (B) the amount obtained by multiplying (1) the number of Undelivered Shares that the Company was required to deliver to the Holder, by (2) the price at which the sell order giving rise to such purchase obligation was executed (including brokerage commissions, if any), and (ii) at the option of the Holder, either (x) pay to the Holder an amount in cash equal to the number of Undelivered Shares multiplied by the Daily VWAP of such shares on the applicable Share Issuance Date or (y) deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its issuance and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to a number of shares deliverable pursuant to Section 3.01(A), with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (i) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, written evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common

Stock as required pursuant to the terms hereof. In addition to the foregoing, if the Company fails for any reason or for no reason to issue Common Stock to the Holder on the applicable Share Issuance Date in breach of this Indenture, the Company shall pay the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Undelivered Shares (based on the Daily VWAP of such shares on the applicable Share Issuance Date), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after the applicable Share Issuance Date until such cash amount is paid, and the Undelivered Shares are issued, to the Holder.

(F) *Share Reserve*. So long as shares of Common Stock are required to be issued in accordance with **Section 3.01(A)**, the Company shall at all times have no less than a number of shares of authorized but unissued Common Stock reserved for any issuance of shares of Common Stock equal to 9,629,629 shares of Common Stock (as adjusted for any stock combination, reverse stock split or similar transaction), less a number of shares corresponding to the number of shares of Common Stock previously issued or delivered pursuant to this **Section 3.01(A)** (as adjusted for any stock combination, reverse stock split or similar transaction) (collectively, the “**Required Reserve Amount**”); provided that at no time shall the number of shares of Common Stock reserved pursuant to this **Section 3.01(F)** be reduced other than in connection with any stock combination, reverse stock split or other similar transaction. If at any time the number of shares of Common Stock authorized and reserved for issuance is not sufficient to meet the Required Reserve Amount, the Company will promptly take all corporate action necessary to authorize and reserve a sufficient number of shares, including, without limitation, calling a special meeting of stockholders to authorize additional shares to meet the Company’s obligations pursuant to this Indenture in the case of an insufficient number of authorized shares, obtain stockholder approval (if required) of an increase in such authorized number of shares, and voting the management shares of the Company in favor of an increase in the authorized shares of the Company to ensure that the number of authorized shares is sufficient to meet the Required Reserve Amount. For the avoidance of doubt, the Required Reserve Amount cannot be used by the Company to satisfy any equivalent obligation under the Convertible Notes Indenture.

(G) *Stock Shortfall*. On each Share Issuance Date detailed on **Exhibit G** attached hereto (each such Share Issuance Date, a “**Stock Shortfall Payment Date**”), in addition to the obligations contained herein, the Company shall pay in cash to the Holder an amount equal to (i) (x) one dollar and thirty five cents (\$1.35) minus (y) the average of the Daily VWAPs during the period commencing on the day of and inclusive of the immediately preceding Stock Shortfall Payment Date (or, if none, the Issue Date) and ending on and inclusive of the day before such Stock Shortfall Payment date (each such period, a “**Stock Shortfall Period**”) multiplied by (ii) the number of shares of Common Stock required to be issued pursuant to **Section 3.01(A)** hereof on such Stock Shortfall Payment Date (without regard to any limitations on such issuance under this Indenture and the Notes); provided, that if the resulting amount shall be negative, no payment pursuant to this **Section 3.01(G)** shall be made on such Stock Shortfall Payment Date for such Stock Shortfall Period; provided, further, that at such time that the Common Stock ceases to be listed on any U.S. national securities exchange, clause (y) above shall be deemed to be equal to zero (0) and all payments to be made pursuant to this **Section 3.01(G)** across all remaining Stock Shortfall Payment Dates, including all accrued and unpaid interest (pursuant to the following sentence), shall immediately become due and payable without any further action or notice by any Person (such date, the “**Accelerated Stock Shortfall Payment Date**”). Notwithstanding the foregoing, during such time that the Common Stock continues to be listed on any U.S. national securities exchange, if a Market Disruption Event that is not waived by the Holder occurs on each Trading Day in a Stock Shortfall Period, clause (y) of the foregoing sentence shall be deemed to be equal to zero (0) for such Stock Shortfall Period. In addition to the foregoing, if the Company fails for any reason or for no reason to make a payment pursuant

to this **Section 3.01(G)** by the applicable Stock Shortfall Payment Date or Accelerated Stock Shortfall Payment Date, as the case may be, (such amount, the “**Undelivered Stock Shortfall Payment**”), the Company shall pay the Holder, in cash, as interest and not as a penalty, for each \$1,000 of Undelivered Stock Shortfall Payment, \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such interest begins to accrue) for each Trading Day after the applicable Stock Shortfall Payment Date or Accelerated Stock Shortfall Payment Date, as the case may be, until such Undelivered Stock Shortfall Payment is paid.

(H) *Make-Whole*. Notwithstanding anything to the contrary in the Indenture or the Notes, upon any redemption, repurchase, retirement of the Notes in connection with a Fundamental Change, Event of Default, Redemption or similar event, the Company shall, on a contemporaneous basis, (x) issue to the Holder, without any action on the part of the Holder, 100% of the remaining number of shares the Holder would otherwise have been entitled to receive pursuant to **Section 3.01(A)**, through to and including the Maturity Date (provided, that, in the event such redemption, repurchase, retirement or conversion or similar event involves fewer than all of the then-outstanding Notes, such issuance will be made on a pro rata basis with the corresponding amount of Notes that are redeemed, repurchased, retired, converted or otherwise extinguished under this **Section 3.01(H)**) and (y) make any payment that would have otherwise been required to be made pursuant to **Section 3.01(G) relating to such shares issued pursuant to subsection (x)** as if the date of such redemption, repurchase or retirement, were a Stock Shortfall Payment Date and the period commencing on the day of and inclusive of the immediately preceding Stock Shortfall Payment Date (or, if none, the Issue Date) and ending on and inclusive of such date were the relevant Stock Shortfall Period (the “**Make-Whole Payment**”).

(I) Notwithstanding anything to the contrary set forth herein, the Trustee shall have no obligations with respect to the Common Stock or the duties of the Company set forth herein with respect to the Common Stock, including the Company’s issuance of Common Stock or any other cash payments or other consideration due to Holders in respect of the Common Stock. In the absence of actual notice to the contrary, the Trustee shall be able to conclusively and without liability presume that such Common Stock has been delivered and such payments have been made.

Article 4. COVENANTS

Section 4.01. Payment on Notes.

(A) *Generally*. The Company will pay or cause to be paid all the principal of, the Fundamental Change Repurchase Price, Optional Redemption Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in the Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on the Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose.

Section 4.02. Exchange Act Reports.

(A) *Generally.* The Company will send to the Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided, however*, that the Company need not send to the Trustee any material for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC. Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee at the time such report is so filed via the EDGAR system (or such successor). Upon the written request of any Holder, the Company will provide to such Holder a copy of any report that the Company has sent the Trustee pursuant to this **Section 4.02(A)**, other than a report that is deemed to be sent to the Trustee pursuant to the preceding sentence. The Company will also comply with its other obligations under Section 314(a)(1) of the Trust Indenture Act.

(B) *Trustee's Disclaimer.* The Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). Delivery of reports, information and documents to the Trustee under this Section 3.02 are for information purposes only and the sending or filing of reports pursuant to **Section 4.02(A)** will not be deemed to constitute actual or constructive notice to or knowledge of the Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under the Indenture. The Trustee will have no duty to review or analyze any such reports delivered to it.

Section 4.03. Default Certificate.

Within one hundred twenty (120) days after December 31, 2023 and each fiscal year of the Company ending thereafter until the full repayment of the Notes, the Company will deliver an Officer's Certificate to the Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company and its Subsidiaries during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action the Company is taking or proposes to take with respect thereto).

Section 4.04. Stay, Extension and Usury Laws.

To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of the Notes or the Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee or the Holders by the Notes or the Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.05. Corporate Existence.

Subject to **Article 7**, the Company will cause to preserve and keep in full force and effect:

- (A) its corporate existence and the corporate existence of its Subsidiaries in accordance with the organizational documents of the Company or its Subsidiaries, as applicable; and
- (B) the material rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, however, that the Company need not preserve or keep in full force and effect the corporate existence of any of its Subsidiaries (other than ProductionCo while the Pledged Collateral remains subject to the Liens created by the Pledge Agreement) or any such license or franchise if the Company determines in good faith that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole; or (y) the loss thereof is not, individually or in the aggregate, reasonably expected to be materially adverse to the Holders.

Section 4.06. Restriction on Acquisition of Notes by the Company and its Affiliates.

The Company will promptly deliver to the Trustee for cancellation all Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired.

Section 4.07. Ranking.

All payments due under the Notes shall rank (i) *pari passu* with all other Notes and the Convertible Notes, (ii) effectively senior to all unsecured Indebtedness of the Company to the extent of the value of the Collateral securing the Notes for so long as the Collateral so secures the Notes in accordance with the terms hereof and (iii) senior to any Subordinated Indebtedness.

Section 4.08. Incurrence of Indebtedness.

The Company shall not and shall not permit any Subsidiary to: (a) create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness, other than Permitted Indebtedness; (b) voluntarily prepay any Indebtedness except for (i) by the conversion of Indebtedness into equity securities (other than Disqualified Stock) and the payment of cash in lieu of fractional shares in connection with such conversion, and (ii) with the proceeds of Permitted Refinancing Indebtedness or (c) amend or modify any documents or notes evidencing any Indebtedness in any manner which shortens the maturity date or any amortization or redemption date thereof to a date that is earlier than ninety-one (91) days following the Maturity Date or otherwise imposes materially more burdensome terms, taken as a whole, upon the Company or its Subsidiaries than exist in such Indebtedness prior to such amendment or modification without the prior written consent of Holder.

Section 4.09. Liens.

The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any asset now owned or hereafter acquired, except Permitted Liens.

Section 4.10. Investments.

The Company shall not directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments.

Section 4.11. Distributions.

The Company shall not, and shall not allow any Subsidiary to, (a) repurchase or redeem any class of Equity Interests, except for Permitted Restricted Payments, (b) declare or pay any cash dividend or make a cash distribution on any class of Equity Interests, except for Permitted Restricted Payments, (c) lend money to any employees, officers or directors (except for travel advances in the ordinary course of business or loans not involving the net transfer on a substantially contemporaneous basis of cash proceeds to employees, officers or directors relating to the purchase of Equity Interests of the Company pursuant to employee stock purchase plans or other similar agreements approved by the Company's Board of Directors), or guarantee the payment of any such loans granted by a third party in excess of fifty thousand dollars (\$50,000) in the aggregate or (d) waive, release or forgive any Indebtedness owed by any employees, officers or directors in excess of fifty thousand dollars (\$50,000) in the aggregate.

Section 4.12. Transfers.

Except for Permitted Transfers, Permitted Investments and Permitted Restricted Payments, the Company shall not, and shall not allow any Subsidiary to, voluntarily or involuntarily transfer, sell, lease, license, lend or in any other manner convey any equitable, beneficial or legal interest in any material portion of the assets of the Company and its Subsidiaries (taken as a whole); provided, however, that for the avoidance of doubt, the dilution arising from an equity or equity-linked financing that constitutes a Driftwood Financing within the meaning of clause (iv) of the definition of Driftwood Financing shall not be deemed a transfer prohibited under this Section 4.12.

Section 4.13. Taxes.

The Company and its Subsidiaries shall pay when due all material taxes, fees or other similar governmental charges (together with any related interest or penalties) now or hereafter imposed or assessed against the Company and its Subsidiaries or their respective assets or upon their ownership, possession, use, operation or disposition thereof or upon their rents, receipts or earnings arising therefrom. The Company and its Subsidiaries shall file on or before the due date therefor all material personal property tax returns. Notwithstanding the foregoing, the Company and its Subsidiaries may contest, in good faith and by appropriate proceedings, taxes, fees or other similar governmental charges for which they maintain adequate reserves therefor in accordance with GAAP.

Section 4.14. Minimum Cash Balance.

The Company shall have at all times liquidity calculated as unrestricted, unencumbered Cash or Cash Equivalents of the Company and its Subsidiaries, excluding the Driftwood Companies, as taken as a whole, in one or more deposit, securities or money market or similar accounts located in the United States ("**Liquidity**") in an aggregate minimum amount equal to fifty million dollars (\$50,000,000).

Section 4.15. Change in Nature of Business.

The Company shall not, and the Company shall cause each of its Subsidiaries to not, engage in any material line of business substantially different from those lines of business

conducted by or publicly contemplated to be conducted by the Company and each of its Subsidiaries on the Issue Date, and such activities related, ancillary or incidental thereto. For the avoidance of doubt, for the purposes of this **Section 4.15**, the line of business conducted by and publicly contemplated to be conducted by (x) the Driftwood Companies and their Subsidiaries is the Driftwood Project and (y) ProductionCo and the Subsidiaries of ProductionCo is the ProductionCo Operations.

Section 4.16. Maintenance of Intellectual Property.

The Company will take all action, and the Company shall cause each of its Subsidiaries to take, all actions necessary or advisable to maintain and preserve all of the registered or applied for Intellectual Property owned by the Company or such Subsidiary that are necessary or material (as determined by the Company in good faith) to the conduct of its business, taken as a whole, in full force and effect.

Section 4.17. Maintenance of Insurance.

The Company shall maintain, and the Company shall cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations (including, without limitation, comprehensive general liability, hazard, rent and business interruption insurance) with respect to its properties (including all real properties leased or owned by it) and business, in such amounts and covering such risks as is required by any governmental authority having jurisdiction with respect thereto or as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated.

Section 4.18. Transactions with Affiliates.

Except for Permitted Restricted Payments, Permitted Investments and transactions between or among the Company, its Wholly Owned Subsidiaries and the Driftwood Companies, neither the Company, nor any of its Subsidiaries, shall enter into, renew, extend or be a party to, any transaction or series of related transactions (including, without limitation, the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any Affiliate, except (i) transactions for fair consideration and on terms not materially less favorable, taken as a whole, to it than would be obtainable in a comparable arm's length transaction with a Person that is not an Affiliate thereof and (ii) compensation, including incentive compensation plans approved by such Person's Board of Directors (or equivalent governing body).

Section 4.19. Restricted Issuances.

The Company shall not, and shall cause its Subsidiaries not to, directly or indirectly, without the prior written consent of the Required Holders, (i) issue any Notes (other than as contemplated by the Securities Purchase Agreement and the Notes) or (ii) issue any other securities or incur any Indebtedness, in either case, that would cause a Default under the Notes or the Indenture or that by its terms would prohibit or restrict the performance of any of the Company's or its Subsidiaries' obligations under the Notes or the Indenture, including without limitation, the payment of interest and principal thereon.

Section 4.20. [Reserved].

Section 4.21. [Reserved].

Section 4.22. Further Instruments and Acts.

At the Trustee's request, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to more effectively carry out the purposes of the Indenture.

Section 4.23. Maintenance of Properties, Etc.

The Company shall maintain and preserve, and the Company shall cause each of its Subsidiaries to maintain and preserve, all of its properties which are necessary or useful (as determined by the Company in good faith) to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and comply at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except, in each case, as could reasonably be expected to cause a Material Adverse Effect. The Company shall cause all material assets used in the exploration, drilling and extraction of natural gas and related and resulting products by the Company or any of its Subsidiaries or Affiliates to be held by ProductionCo or one or more of its Wholly Owned Subsidiaries and shall make no Investment in any material assets used in the exploration, drilling and extraction of natural gas and related and resulting products other than through ProductionCo or one or more of its Wholly Owned Subsidiaries.

Section 4.24. Issuances and Transfers of Equity Interests of ProductionCo.

(A) The Company hereby represents that all of ProductionCo's Equity Interests, equity interests and securities convertible into Equity Interests of or equity interests in ProductionCo are pledged as Pledged Collateral pursuant to the Pledge Agreement. ProductionCo shall not issue Equity Interests, any other equity interests, or any securities convertible into Equity Interests of or equity interests in ProductionCo unless the same are pledged as Pledged Collateral pursuant to the Pledge Agreement.

(B) The Pledgor shall not transfer all or any portion of ProductionCo's Equity Interests, equity interests and securities convertible into Equity Interests of or equity interests in ProductionCo to any Person, unless such Person is the Company or a Wholly Owned Subsidiary of the Company and such transferee Person becomes a party to or the successor or assign under the Pledge Agreement or such transferee enters a new pledge agreement with the Collateral Trustee substantially in the form of the Pledge Agreement with respect to the Pledged Collateral, which shall constitute the Pledge Agreement.

Article 5. REPURCHASE AND REDEMPTION

Section 5.01. No Sinking Fund.

No sinking fund is required to be provided for the Notes.

Section 5.02. Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.* Subject to the other terms of this **Section 5.02**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized

Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated pursuant to **Section 7.02** and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including a rescission as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 5.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 5.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof.

(C) *Fundamental Change Repurchase Date.* The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than thirty-five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 5.02(E)**.

(D) *Fundamental Change Repurchase Price.* The Fundamental Change Repurchase Price for any Note (or any portion of such Note) to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the Fundamental Change Base Repurchase Price for such Fundamental Change plus any accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided, however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date). For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice.* On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, in writing, with a copy to the Trustee and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**"), which notice shall state the Fundamental Change Repurchase Date and Fundamental Change Base Repurchase Price of such Fundamental Change. Upon written request by the Company in an Officer's Certificate delivered to the Trustee at least five (5) Business Days prior to the requested date of delivery (or such shorter time as shall be satisfactory to the Trustee), the Trustee shall send the Fundamental Change Notice to the Holders on behalf of the Company. The failure to deliver a Fundamental Change Notice will not limit the Fundamental Change Repurchase right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right.*

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased.* To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer.

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note.

(iii) *Withdrawal of Fundamental Change Repurchase Notice.* A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the third Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination.

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof.

(G) *Payment of the Fundamental Change Repurchase Price.* Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time prescribed by **Section 4.01(B)**, the Company will cause the Fundamental Change Repurchase

Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date such Note is delivered to the Paying Agent. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 5.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered pursuant to the first sentence of this **Section 5.02(G)**.

(H) *Compliance with Applicable Securities Laws.* To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in the Indenture. To the extent the provisions of any securities laws or regulations conflict with the provisions in this Section 4.02(H) or any other provision of this Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.02(H).

(I) *Repurchase in Part.* Subject to the terms of this **Section 5.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 5.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 5.03. Right of the Holders to Redeem the Notes.

(A) *No Right to Redeem Before October 1, 2024.* Unless in connection with a Fundamental Change Notice pursuant to **Section 5.02**, an Optional Redemption pursuant to **Section 5.03(B)(ii)** or an Event of Default pursuant to **Section 8.01**, the Holders may not redeem the Notes at their option at any time before October 1, 2024.

(B) *Redemption.*

(i) *Mandatory Right to Redeem the Notes on or after October 1, 2024.* Subject to the terms of this **Section 5.03**, on or after October 1, 2024, and solely if the Liquidity Threshold is not met on or after September 10, 2024 (at which time a Holder may provide written notice to the Trustee and the Company that it is exercising its right to redeem such Holder's Notes or a portion of such Holder's Note), each Holder may redeem such Holder's Notes or a portion of such Holder's Notes up to the entire principal amount of such Note outstanding on such date, in an Authorized Denomination of such Note for a cash purchase price equal to the Redemption Price.

(ii) *Optional Redemption.* Provided that a Fundamental Change Notice has not been delivered to each Holder pursuant to Section 5.02, at any time or from time to time, the Company may provide written notice in the form of an Optional Redemption Notice to every Holder (with a copy to the Trustee) calling all but not part of such Holder's Notes for a cash purchase price equal to the cash amount of the Optional Redemption Price (an "**Optional Redemption**"). At the Company's request in an Officer's Certificate delivered to the Trustee at least five (5) Business Days prior to the requested date of delivery, the Trustee shall send the Optional Redemption Notice to the Holders on behalf of the Company. The Redemption Date of the Optional Redemption will be a Business Day of the Company's choosing that is no more than thirty-five (35), nor less than twenty (20) Business Days after the date the Company sends the Optional Redemption Notice. Upon the Company's compliance with its redemption obligations, the Collateral shall be automatically released from the Liens created by the Collateral

Documents, and all obligations of the Collateral Trustee and the Grantors shall automatically terminate, all without delivery of any instrument or any further action by any party, and all rights to the Collateral shall revert to the applicable Grantors. Notwithstanding the foregoing, the Company may not effect an Optional Redemption at any time that any of the Events of Default set forth in **Sections 8.01(a)(i)-(iii)** shall have occurred and be continuing.

(C) *Redemption Prohibited in Certain Circumstances.* If (i) the principal amount of the Notes has been accelerated pursuant to **Section 8.02** and such acceleration has not been rescinded on or before a Redemption Date (including a rescission as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso in Section 5.03(E), on such Redemption Date), or (ii) a Fundamental Change has occurred and the Holder has delivered a Fundamental Change Repurchase Notice that has not been withdrawn pursuant to **Section 5.02(F)(iii)**, the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof.

(D) *Redemption Date.* In the event of a Mandatory Redemption, a Holder choosing to exercise its right to redemption pursuant to **Section 5.03(B)(i)** shall provide written notice to the Trustee and the Company at least fifteen (15) Business Days prior to the Redemption Date that it is exercising its right to redeem such Holder's Note or a portion of such Holder's Note on the date set forth in such notice and in the event of an Optional Redemption, the date of the Optional Redemption set forth in the Optional Redemption Notice, shall be a Redemption Date.

(E) *Redemption Price.* The Redemption Price for any Note called for a Mandatory Redemption is an amount in cash equal to the principal amount of such Note being redeemed, plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Mandatory Redemption; provided, however, that the Holder of such Note at the Close of Business on the Regular Record Date immediately prior to the Redemption Date will be entitled, notwithstanding any Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of Section 2.05(C) and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with Section 2.05(C), on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price and Optional Redemption Price, as applicable, will include interest on Notes to be redeemed from, and including, such Interest Payment Date.

(F) *Redemption Notices.*

(i) *Mandatory Redemption Notice.* To call a Holder's Note for Redemption pursuant to **Section 5.03(B)(i)**, a Holder must send to the Company, the Trustee and the Paying Agent a written notice of such Redemption in accordance with **Section 5.03(D)** (a "**Redemption Notice**").

Such Redemption Notice must state:

- (1) that the Holder has called the Holder's Notes for Redemption;
the principal amount to be redeemed (or such lesser amount as the Holders may accept for redemption);
- (2) the Redemption Date for such Redemption;

the Redemption Price for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to Section 5.03(E)); and

(3) the CUSIP and ISIN numbers, if any, of the Notes.

(ii) *Optional Redemption Notice.* To offer the Holders an Optional Redemption pursuant to **Section 5.03(B)(ii)**, the Company must send (or cause to be sent) to the Holders, the Trustee and the Paying Agent a written notice of such Optional Redemption (an “**Optional Redemption Notice**”).

Such Optional Redemption Notice must state:

(1) that the notice is an Optional Redemption Notice;

(2) the principal amount to be redeemed, which shall be the full outstanding principal amount;

(3) the Redemption Date for such Redemption;

(4) the Optional Redemption Price for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to Section 4.03(E)); and

(5) the CUSIP and ISIN numbers, if any, of the Notes.

(G) *Payment of the Optional Redemption Price and Redemption Price.* Without limiting the Company’s obligation to deposit the Redemption Price and the Optional Redemption Price, as applicable, by the time proscribed by **Section 4.01(B)**, the Company will cause the Redemption Price and the Optional Redemption Price, as applicable, for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date, subject to **Section 5.03(B)**. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 5.03(E)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

Article 6. LIMITATIONS ON OWNERSHIP

Section 6.01. Limitations on Ownership

(A) *Beneficial Ownership Limitation.* Notwithstanding anything to the contrary contained herein, the Company shall not issue shares pursuant to a Note and any such issuance shall be null and void and treated as if never made, to the extent that after giving effect to such issuance of shares of Common Stock, such Holder together with the other Attribution Parties would collectively beneficially own in the aggregate in excess of 4.99% (the “**Maximum Percentage**”) of the number of shares of Common Stock outstanding immediately after giving effect to such issuance of shares of Common Stock provided, that, the aggregate number of shares of Common Stock required to be issued pursuant to **Section 3.01(A)** shall be held in abeyance for the benefit of the Holder until such time or times as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such shares (and any such shares declared or made on such initial issuance or on any subsequent issuance held similarly in abeyance) to the

same extent as if there had been no such limitation. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by a Holder and such Holder's Attribution Parties shall include the number of shares of Common Stock held by such Holder and such Holder's other Attribution Parties plus the number of shares of Common Stock issuable with respect to such issuance of shares of Common Stock (or applicable portion thereof) with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this **Section 6.01(A)**. For purposes of this **Section 6.01(A)**, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. The Trustee shall have no obligation to calculate the beneficial ownership of the Holder. For purposes of this Indenture and the Notes and any issuance of the Notes, in determining the number of outstanding shares of Common Stock the Company may issue pursuant to Article 3 without exceeding the Maximum Percentage, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). For any reason at any time, upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm in writing or by electronic mail to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including such Holder's Note, by such Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to a Holder pursuant to such Holder's Note would result in such Holder and such Holder's other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock (as determined under Section 13(d) of the Exchange Act), the number of shares so issued by which such Holder's and such Holder's other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and shall be cancelled *ab initio*, and such Holder shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, a Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; *provided that* (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to such Holder and such Holder's other Attribution Parties and not to any other Holder of Notes that is not an Attribution Party of such Holder. For purposes of clarity, the shares of Common Stock issuable pursuant to the terms of this Indenture and the Notes in excess of the Maximum Percentage shall not be deemed to be beneficially owned by the Holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act. No prior inability to issue shares of Common Stock to the Holder pursuant to a Note pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect to any subsequent determination of the ability to issue shares of Common Stock hereunder. The provisions of this paragraph shall be construed and implemented in a manner other than in strict conformity with the terms of this **Section 6.01(A)** to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this **Section 6.01(A)** or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of a Note. Notwithstanding anything to the contrary herein, for any issuance of shares in which any Holder, together with its Attribution

Parties, would beneficially own, in the aggregate, in excess of the Maximum Percentage of shares of Common Stock, such Holder must deliver to the Company written notice at least one (1) Business Day in advance of such issuance of shares (the “**Maximum Percentage Notice**”). The Maximum Percentage Notice will state that such issuance of shares will exceed the Maximum Percentage. If such Holder fails to deliver the Maximum Percentage Notice, the Company shall not be deemed to be in breach of this Indenture for the issuance of shares. The Holder will promptly inform the Company, in reliance on the Reported Outstanding Share Number, when all or part of the shares of Common Stock can be issued without exceeding the Maximum Percentage of it and its Attribution Parties and the Company shall promptly issue such shares.

(B) *HSR Clearance*. Notwithstanding anything to the contrary in the Indenture or the Notes, the Company shall not issue shares pursuant to a Note, and no Holder shall have any right to receive shares pursuant to a Note pursuant to the terms and conditions of the Indenture and such Holder’s Note, and any such issuance shall be null and void and treated as if never made, unless and until after giving effect to such conversion or issuance of shares of Common Stock, the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “**HSR Act**”), shall have expired or been terminated, and any required clearances consents, approvals, and waivers under any other antitrust laws applicable to the consummation of any such issuance of shares of Common Stock shall have been obtained. In furtherance and not in limitation of the foregoing, prior to the issuance of any shares of Common Stock pursuant to the Note, such Holder will, if required under the HSR Act, provide written notice pursuant to 16 C.F.R. § 803.5(a) to the Company, and (x) make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated by this Indenture as promptly as practicable, (y) supply as promptly as reasonably practicable any additional information and documentary material that may be requested pursuant to the HSR Act and (z) use its commercially reasonable efforts to take or cause to be taken all other actions necessary, proper or advisable consistent with this **Section 6.01(B)** to cause the expiration or termination of the applicable waiting periods, or receipt of required authorizations, as applicable, under the HSR Act as soon as practicable. Without limiting the foregoing, the parties shall request and shall use commercially reasonable efforts to obtain early termination of the waiting period under the HSR Act.

(C) Under no circumstances shall the Trustee have any obligation to identify any beneficial owner of Common Stock, or otherwise make any determination, monitor, or otherwise take any action with respect to the restrictions set forth in this Article 6.

Article 7. SUCCESSORS

Section 7.01. When the Company May Merge, Etc.

(A) *Generally*. The Company will not consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person(a “**Business Combination Event**”), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is an entity (the “**Successor Entity**”) duly organized and existing under the laws of its jurisdiction of organization that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplement to this instrument) all of the Company’s obligations under the

Securities Purchase Agreement, the Indenture, the Notes and the other Transaction Documents; and

(ii) the Company has complied with its obligations under **Section 5.02** prior to the consummation of the Business Combination Event; and

(iii) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

(B) *Delivery of Officer's Certificate and Opinion of Counsel to the Trustee.* Before the effective time of any Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 7.01(A)**; and (ii) all conditions precedent to such Business Combination Event provided in the Indenture have been satisfied.

Section 7.02. Successor Entity Substituted.

At the effective time of any Business Combination Event that complies with **Section 7.01**, the Successor Entity (if not the Company) will succeed to, and may exercise every right and power of, the Company under the Indenture and the Notes with the same effect as if such Successor Entity had been named as the Company in the Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations with respect to the Note under the Indenture and the Notes.

Article 8. DEFAULTS AND REMEDIES

Section 8.01. Events of Default.

(A) *Definition of Events of Default.* "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default for two (2) Business Days in the payment when due of interest on any Note;

(iii) the Company's failure to timely deliver, when required by the Indenture, a Fundamental Change Notice;

(iv) a materially false or inaccurate certification (including a false or inaccurate deemed certification) by the Company as to whether any Event of Default has occurred;

(v) a default in the Company's obligations under **Article 7 and Sections 3.01 (A), (G) and (H)**;

(vi) a default in any of the Company's obligations or agreements under the Indenture, the Notes or the other Transaction Documents (other than a default set forth in **clause (i) through (v) or (vii) through (xvii)** of this **Section 8.01(A)**), or a breach of any representation, warranty or covenant in any material respect (other than representations or

warranties subject to material adverse effect or materiality qualifications, which may not be breached in any respect) of any Transaction Document; *provided, however*, that if such default can be cured, then such default shall not be an Event of Default unless the Company has failed to cure such default within the following number of applicable days after the Company becomes aware of, or by exercise of reasonable prudence would have become aware of, its occurrence (the “**Cure Period**”) and *provided, further*, that solely with respect to a default of the covenant set forth in **Section 4.14**, there must be a minimum of (30) days between any two Cure Periods: (A) with respect to a default in respect of the covenants set forth in **Section 4.08, Section 4.09, Section 4.10, Section 4.11, Section 4.12, Section 4.14** (other than set forth in (B) below), **Section 4.15, Section 4.18, Section 4.19** or **Section 4.24** herein, five (5) days; (B) with respect to a default of the covenant set forth in **Section 4.14** herein occurring prior to June 30, 2024, thirty (30) days; provided, that, at the time of such default and during the related Cure Period (x) the Company has a market capitalization equal to or greater than seven hundred million dollars (\$700,000,000) as measured by Bloomberg L.P., (y) the Equity Conditions are satisfied and (z) the Company has Liquidity of equal to or greater than twenty five million dollars (\$25,000,000) or (C) otherwise, thirty (30) days. For the avoidance of doubt, the five (5) day Cure Period will apply under subsection (B) above, if during such thirty (30) day period, the Company decreases its Liquidity below twenty five million dollars (\$25,000,000);

(vii) (i) the failure of the Company or any of its Significant Subsidiaries to pay when due (giving effect to any applicable grace period) any Indebtedness having a principal amount in excess of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Significant Subsidiaries, whether such Indebtedness exists as of the Issue Date or is thereafter created; or (ii) the occurrence of any breach or default under any terms or provisions of any other Indebtedness in a principal amount in excess of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Significant Subsidiaries, if the effect of such failure or occurrence is to cause such Indebtedness to become or be declared due prior to its stated maturity; provided, however, that if prior to any acceleration of the Notes, any such failure, breach or default in respect of such other Indebtedness is cured or waived, any acceleration related thereto rescinded, or such Indebtedness is repaid during the ten (10) Business Day period commencing upon the end of any applicable grace period for any such failure to pay or the occurrence of such acceleration, as the case may be, any Default or Event of Default (but not any acceleration of the Notes) caused by such failure, breach, default or acceleration shall be automatically rescinded, so long as such rescission does not conflict with any judgment, decree or applicable law;

(viii) one or more final judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, could result in a judgment, order or award) for the payment of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance pursuant to which the insurer has been notified and has not denied coverage), is rendered against the Company or any of its Significant Subsidiaries and remains unsatisfied and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order or award or settlement or (ii) there shall be a period of ten (10) consecutive Business Days after entry thereof during which (A) a stay of enforcement thereof is not in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

- (ix) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:
 - (1) commences a voluntary case or proceeding;
 - (2) consents to the entry of an order for relief against it in an involuntary case or proceeding;
 - (3) consents to the appointment of a custodian of it or for any substantial part of its property;
 - (4) makes a general assignment for the benefit of its creditors;
 - (5) takes any comparable action under any foreign Bankruptcy Law; or
 - (6) generally is not paying its debts as they become due; or
- (x) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:
 - (1) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case or proceeding;
 - (2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;
 - (3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or
 - (4) grants any similar relief under any foreign Bankruptcy Law,

and, in each case under this **Section 8.01(A)(x)**, such order or decree remains unstayed and in effect for at least thirty (30) days; and

(xi) the Pledge Agreement or Mortgages shall for any reason fail or cease to create a separate valid and perfected first priority (subject to Permitted Liens, including those that arise by operation of law) Lien on a material portion of the Collateral, in each case, in favor of the Collateral Trustee in accordance with the terms thereof, or any material provision of Pledge Agreement or Mortgages shall at any time for any reason cease to be valid and binding on or enforceable against the Company or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any governmental authority having jurisdiction over the Company, seeking to establish the invalidity or unenforceability thereof;

(xii) [reserved];

(xiii) [reserved];

(xiv) the suspension from trading or failure of the Common Stock to be trading or listed on an Eligible Exchange for a period of three (3) consecutive Trading Days;

(xv) [reserved];

(xvi) the Company is in material breach of Section 4(r) of the Securities Purchase Agreement; and

(xvii) the Company (A) fails to timely file its quarterly reports on Form 10-Q or its annual reports on Form 10-K with the SEC in the manner and within the time periods required by the Exchange Act (giving effect to any applicable extensions or grace periods) or (B) restates any such quarterly report or annual report previously filed with the Commission as a result of a misstatement or omission in quarterly report or annual report that would reasonably be expected to cause a Material Adverse Effect.

(B) *Cause Irrelevant.* Each of the events set forth in **Section 8.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

(C) *Notice of Events of Default.* Promptly, but in no event later than ten (10) Business Days after the Company becomes aware of, or by exercise of reasonable prudence would have become aware of, an Event of Default, the Company will provide written notice of such Event of Default (an “**Event of Default Notice**”) to the Collateral Agent, Collateral Trustee and a Responsible Officer of the Trustee, which Event of Default Notice shall include (i) a reasonable description of the applicable Event of Default, (ii) the date on which the Event of Default occurred and (iii) the date on which the Event of Default initially occurred.

Section 8.02. Acceleration.

(A) *Automatic Acceleration in Certain Circumstances.* If an Event of Default set forth in **Section 8.01(A)(ix)** or **8.01(A)(x)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then an amount equal to the Acceleration Amount will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration.* If an Event of Default (other than an Event of Default set forth in **Section 8.01(A)(ix)** or **8.01(A)(x)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Required Holders, by providing written notice to the Company and the Trustee (an “**Optional Acceleration Notice**”), may declare an amount equal to the Acceleration Amount with respect to all of the Notes then outstanding to become due and payable immediately.

(C) *Rescission of Acceleration.* Notwithstanding anything to the contrary in the Indenture or the Notes, the Required Holders, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 8.03. Other Remedies.

(A) *Trustee May Pursue All Remedies.* If an Event of Default has occurred, the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of the Indenture or the Notes.

(B) *Procedural Matters.* The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or

omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

(C) *Deposit Account Control Agreement.* Unless an Event of Default has occurred and is continuing and notice has been delivered by the Collateral Trustee pursuant to the Collateral Trust Agreement, the Collateral Trustee shall not, and the Collateral Agent shall not instruct the Collateral Trustee to, issue any instructions with respect to any account subject to any Deposit Account Control Agreement or any cash or other assets on deposit in or held in any such account and shall not give instructions on consent to the delivery of any such exercise or issuance by the Collateral Trustee unless required under the Collateral Trust Agreement, but will otherwise continue to exercise dominion or control over such account.

Section 8.04. Waiver of Past Defaults.

An Event of Default pursuant to **clause (i), (ii) or (vi) of Section 8.01(A)** (provided that, in the case of **clause (vii)** only, such Event of Default results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Required Holders by written notice to the Company and the Trustee. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 8.05. Control by Majority.

Subject to the Collateral Trust Agreement, the Required Holders may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or Collateral Agent or exercising any trust or power conferred on it. However, the Trustee and Collateral Agent each may refuse to follow any direction that conflicts with law, the Indenture, the Notes, or any other Collateral Document or that, the Trustee or Collateral Agent, as applicable, determines may be unduly prejudicial to the rights of other Holders (it being understood that the Trustee and Collateral Agent do not have an affirmative duty to determine whether any direction is prejudicial to the rights of any Holder) or may involve the Trustee or the Collateral Agent in liability, unless the Trustee or Collateral Agent is offered security and indemnity satisfactory to the Trustee or Collateral Agent, as applicable, against any loss, liability or expense to the Trustee or Collateral Agent, as applicable, that may result from the Trustee's or Collateral Agent's, as applicable, following such direction.

Section 8.06. Limitation on Suits.

No Holder may pursue any remedy with respect to the Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) its rights to receive shares of Common Stock issuable under Section 3.01(A), cash payments under Section 3.01 (G) or a Make-Whole Payment under Section 3.01(H)), unless:

- (A) such Holder has previously delivered to the Trustee notice of an Event of Default;
- (B) the Required Holders deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, the Required Holders do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use the Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of the Indenture complies with the preceding sentence.

Section 8.07. Absolute Right of Holders to Receive Payment and to Institute Suit for the Enforcement of such Right.

Notwithstanding anything to the contrary in the Indenture or the Notes (but without limiting **Section 9.01**), the right of each Holder of a Note to receive (i) the shares of Common Stock issuable pursuant to Section 3.01(A) of this Indenture, (ii) cash payments under Section 3.01(G) of this Indenture, (iii) a Make-Whole Payment under Section 3.01(H) of this Indenture and (iv) payment or delivery, as applicable, of the principal of, or the Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for, or any interest on, such Note on or after the respective due dates therefor provided in the Indenture and the Notes, or to bring suit for the enforcement of any such payment or delivery after such respective due dates, will not be impaired or affected without the consent of such Holder.

Section 8.08. Collection Suit by Trustee.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i), (ii) or (v) of Section 8.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for (x) the shares of Common Stock issuable pursuant to Section 3.01(A) of this Indenture and (y) the total unpaid or undelivered principal of, or Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for, or interest on, as applicable, and, to the extent lawful, any Default Interest, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in Section 7.7 of the Base Indenture; provided that nothing in this Indenture shall require the Trustee to take ownership, control or possession of or to assist in the delivery of Common Stock.

Section 8.09. Trustee May File Proofs of Claim.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to Section 7.7 of the Base Indenture. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all

distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in the Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 8.10. Priorities.

The Trustee will pay or deliver in the following order any money or other property that it collects or receives from the Company, the Collateral Agent or from the Collateral Trustee pursuant to this **Article 8**:

First: to the Trustee, the Collateral Agent and the Collateral Trustee and their respective agents and attorneys for amounts due under the Base Indenture and this Supplemental Indenture and the Collateral Documents, including payment of all fees, compensation, expenses and liabilities incurred, and all advances made, by the Trustee, the Collateral Agent or the Collateral Trustee, as applicable, and the costs and expenses of collection;

Second: to Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Acceleration Amount due, or any Make-Whole Payment due, or any cash payment required on a Stock Shortfall Payment Date, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Third: to the Company or such other Person as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 8.10**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 8.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under the Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided, however*, that this **Section 8.11** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 8.07** or any suit by the Required Holders.

Section 8.12. Trustee's Obligation to Provide Notice of Defaults to Holders.

If a Default has occurred and is continuing or an Event of Default occurs and is actually known to a Responsible Officer of the Trustee, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not actually known to a Responsible Officer of the Trustee at such time, promptly (and in any event within

ten (10) Business Days) after it becomes actually known to a Responsible Officer; *provided, however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not be deemed to have notice of any Default or Event of Default (other than a Default of any payment) unless written notice of any event that is in fact such a Default or Event of Default is received by a Responsible Officer at the address of the Trustee pursuant to **Section 14.01**, and such notice references the Notes and this Supplemental Indenture and states it is a notice of default.

Article 9. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.01. Without the Consent of Holders.

Notwithstanding anything to the contrary in **Section 9.02**, the Company, the Trustee and the Collateral Agent, as applicable, may amend or supplement the Indenture, the Notes or the Collateral Documents without the consent of any Holder to:

- (A) cure any ambiguity or correct any omission, defect or inconsistency in the Indenture or the Notes;
- (B) add guarantees with respect to the Company's obligations under the Indenture or the Notes;
- (C) secure the Notes with additional collateral;
- (D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;
- (E) provide for the assumption of the Company's obligations under the Indenture and the Notes pursuant to, and in compliance with, **Article 7** or to provide for the assumption of any Grantor's obligations under the Collateral Documents or the addition of one or more additional grantors, pledgors or mortgagors, as applicable under the Collateral Documents, in each case, pursuant to and in compliance with Section 3.25(B);
- (F) release all or any portion of the Collateral (or all or any portion of the value of the Collateral) or release a guarantor from their guarantee of the Secured Obligations, each in accordance with the Indenture or the Collateral Documents;
- (G) comply with any requirement of the SEC in connection with effecting or maintaining the qualification of the Indenture, or any supplemental indenture thereto, under the Trust Indenture Act, as then in effect;
- (H) provide for any transfer restrictions that apply to any Notes issued under the Indenture (other than the Initial Notes) that, at the time of their original issuance, constitute "restricted securities" within the meaning of Rule 144 under the Securities Act or that are originally issued in reliance upon Regulation S under the Securities Act; or
- (I) make any other changes to the Indenture or the Notes that does not, individually, or in the aggregate with all other such changes, adversely affect the rights of the Holders in any material respect.

In addition, without consent of any Holder, and notwithstanding anything to the contrary in this Indenture or the Notes, (i) as provided in Section 12.01 or (ii) if the Notes have been repaid or

redeemed in full, the Collateral shall be automatically released from the Liens created by the Collateral Documents (in the case of (ii), with respect to the obligations in respect of the Notes), and all obligations of the Collateral Agent and the Grantors shall automatically terminate, all without delivery of any instrument or any further action by any party, and all rights to the Collateral shall revert to the Grantors, as applicable. At the request and sole expense of Grantors, as applicable, following any such termination, the Collateral Agent shall deliver (or cause the Collateral Trustee to deliver) to Grantors, as applicable, any Collateral held by the Collateral Agent or the Collateral Trustee, as applicable, under any Collateral Documents, and execute and deliver (or cause the execution and delivery) to Grantors, as applicable any documents that Grantors, as applicable, shall reasonably request to evidence such termination.

Section 9.02. With the Consent of Holders.

(A) *Generally.* Subject to **Sections 9.01, 8.04, 8.05 and 8.07** and the immediately following sentence, the Company, the Trustee and the Collateral Agent, as applicable, may, with the consent of the Required Holders, amend or supplement the Indenture, the Notes or the Collateral Documents or waive compliance with any provision of the Indenture, the Notes or the Collateral Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 9.01**, without the consent of each affected Holder, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may:

- (i) reduce the principal, or extend the stated maturity, of any Note;
- (ii) reduce the Redemption Price, Optional Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;
- (iii) reduce the rate, or extend the time for the payment, of interest on any Note;
- (iv) reduce the amount, or extend the time for the issuance, of any shares of Common Stock issuable pursuant to Section 3.01(A) or cash payment on the Stock Shortfall Payment Date pursuant to Section 3.01(G) or Make-Whole Payment pursuant to Section 3.01(H) of this Indenture and the Notes;
- (v) impair the rights of any Holder set forth in **Section 8.07** (as such section is in effect on the Issue Date);
- (vi) change the ranking of the Notes;
- (vii) make any Note payable in money, or at a place of payment, other than that stated in the Indenture or the Note;
- (viii) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or
- (ix) make any change to this Section 8.02 or any other amendment, supplement, waiver or modification provision of the Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i), (ii), (iii) and (iv)** of this **Section 9.02(A)**, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may change the amount or type of consideration due on any Note

(whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holdings Need Not Approve the Particular Form of any Amendment.* A consent of any Holder pursuant to this **Section 9.02** need only approve the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 9.03. Notice of Amendments, Supplements and Waivers.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 9.01** or **9.02** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided, however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 9.04. Revocation, Effect and Solicitation of Consents; Special Record Dates; Etc.

(A) *Revocation and Effect of Consents.* The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 9.04(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates.* The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 9**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 9.04(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided, however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents.* For the avoidance of doubt, each reference in the Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect.* Each amendment, supplement or waiver pursuant to this **Article 9** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 9.05. Notations and Exchanges.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee, at the Company's direction, or the Company may, in its discretion, require the Holder of such Note

to deliver such Note to the Trustee so that the Trustee, at the Company's direction, may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 9.05** will not impair or affect the validity of such amendment, supplement or waiver.

Section 9.06. Trustee to Execute Supplemental Indentures.

The Trustee and the Collateral Agent will execute and deliver any supplemental indenture or amendment authorized pursuant to this **Article 9**; *provided, however*, that the Trustee and the Collateral Agent need not (but may, in its sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the Trustee's and the Collateral Agent's rights, duties, liabilities, indemnities or immunities. In executing any such supplemental indenture or amendment, the Trustee and the Collateral Agent will be entitled to receive, and (subject to Sections 7.1 and 7.2 of the Base Indenture) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by the Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms.

Article 10. SATISFACTION AND DISCHARGE

Section 10.01. Termination of Company's Obligations.

The Indenture will be discharged, and will cease to be of further effect, as to all Notes issued under the Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.12**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on the Redemption Date, Fundamental Change Repurchase Date or the Maturity Date) for an amount of cash that has been fixed;

(B) the Company has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent, in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash sufficient to satisfy all amounts or other property due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.12**);

(C) the Company has paid all other amounts payable by it under the Indenture with respect to the Notes; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of the Indenture with respect to the Notes have been satisfied;

provided, however, that **Article 13** of this Indenture and **Section 14.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.14** and the obligations of the Trustee and the Paying Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of the Indenture as to the Notes.

Section 10.02. Repayment to Company.

Subject to applicable unclaimed property law, the Trustee and the Paying Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee and the Paying Agent will have no further liability to any Holder with respect to such cash or other property, and Holders entitled to the payment or delivery of such cash or other property must look to the Company for payment as a general creditor of the Company.

Section 10.03. Reinstatement.

If the Trustee or the Paying Agent is unable to apply any cash or other property deposited with it pursuant to **Section 10.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of the Indenture pursuant to **Section 10.01** will be rescinded; *provided, however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee or the Paying Agent, as applicable.

Article 11. COLLATERAL AGENCY

Section 11.01. Collateral Agent.

Each Holder, by its acceptance of a Note, hereby (i) designates and appoints HB Fund LLC to act as the Collateral Agent hereunder (ii) designated and appoints the Collateral Agent to act as the Secured Parity Lien Representative under the Collateral Trust Agreement and (iii) authorizes and directs the Collateral Agent to appoint the Collateral Trustee under the Collateral Trust Agreement, in each case, on behalf of the Holders, the Collateral Agent and the Trustee under this Agreement and the other Transaction Documents.

Subject in all cases to the Collateral Trust Agreement, the Collateral Agent shall hold (or cause the Collateral Trustee to hold), and will be entitled to enforce, all Liens and securities interests required by the terms of the Notes. Except as provided by the Holders of at least a majority in principal amount of the outstanding Notes, the Collateral Agent shall not be obligated:

- (a) to act upon directions purported to be delivered to it by any Person;
- (b) to foreclose upon or otherwise enforce any Lien; or
- (c) to take any other action whatsoever with regard to any or all of the Collateral Documents, the Liens created thereby or the

Collateral.

Section 11.02. Application Proceeds of any Collateral.

Subject in all cases to the Collateral Trust Agreement, if any collateral securing any of the Notes is sold or otherwise realized upon by the Collateral Agent in connection with any foreclosure, collection or other enforcement of Liens or security interests granted to the

Collateral Agent or by the Collateral Trustee to secure the Notes, the proceeds received by the Collateral Agent from such foreclosure, collection or other enforcement will be delivered by the Collateral Agent to the Trustee for application in accordance with **Section 8.10**.

Subject to the provisions of **Article 13** of this Indenture and to the Collateral Trust Agreement, the Collateral Agent may direct, on behalf of the Holders of the Notes, the Collateral Trustee to take all actions it deems necessary or appropriate in order to enforce any of the terms of any applicable collateral documents and to collect and receive any and all amounts payable by the Company in respect of the Notes.

Section 11.03. Limitation on the Duty of Collateral Agent in Respect of Collateral.

The Collateral Agent shall be deemed to have exercised reasonable care in the custody of any collateral securing the Notes in its possession if such collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any such collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Agent in good faith.

The Collateral Agent shall not be responsible for the existence, genuineness or value of any of the collateral securing the Notes or for the validity, perfection, priority or enforceability of the liens or securities interests in any such collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes negligence or willful misconduct on the part of the Collateral Agent, for the validity or sufficiency of any such collateral or any agreement or assignment contained therein, for the validity of the title of the Company to any such collateral, for insuring any such collateral or for the payment of taxes, insurance premiums or other related payments, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of any such collateral.

The Collateral Agent is authorized and directed to (i) enter into the Transaction Documents to which it is party, whether executed on or after the Closing, (ii) bind the Trustee and the Holders on the terms as set forth in the Transaction Documents, and (iii) perform and observe its obligations under the Transaction Documents.

Notwithstanding anything to the contrary contained herein, the Collateral Agent shall only act pursuant to the instructions of the requisite Holders or in accordance with the Collateral Trust Agreement, with respect to the Transaction Documents and the Collateral and the Trustee shall have no obligation to provide any direction or instruction to the Collateral Agent, in its capacity as such or in its capacity as Secured Parity Lien Representative.

Any corporation or association into which either the Collateral Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Collateral Agent, is a party, will be and become the successor to the Collateral Agent (including in its capacity as Secured Parity Lien Representative), under this Agreement and the other Transaction Documents and will have and succeed to the rights,

powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

Notwithstanding anything to the contrary contained herein, in the event of a conflict with the terms of this **Section 11.03** and the terms of the Collateral Trust Agreement, the Collateral Trust Agreement will control.

The Collateral Agent may resign at any time without cause by giving at least 30 days' prior written notice to the Issuer, the Trustee and the Holders. The Holders that hold the majority of the outstanding Notes may at any time remove the Collateral Agent without cause by an instrument in writing delivered to the Issuer, the other Holders, the Trustee and the Collateral Agent. No resignation by or removal of the Collateral Agent pursuant to this **Section 11.03** shall become effective prior to the date of appointment by such Holders of a successor Collateral Agent and the acceptance of such appointment by such successor Collateral Agent.

Article 12. COLLATERAL AND SECURITY

Section 12.01. General.

The Notes shall be secured on a first-priority basis (subject to Permitted Liens) with Liens on the Collateral.

Section 12.02. Security Documents.

(A) In order to secure the Secured Obligations, (i) the Pledgor, on the Issue Date simultaneously with the execution and delivery of this Supplemental Indenture, entered into Pledge Agreement granting the Collateral Trustee a Lien, subject only to Permitted Liens, on the Collateral and (ii) the Company agrees that it will take all such action as shall be reasonably required to ensure that the Secured Obligations will at all times be secured by a Lien, subject only to Permitted Liens, on the Collateral, except as otherwise permitted by the terms of this Indenture.

(B) Each Holder of Notes, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Pledge Agreement, 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, to have authorized and directed the Collateral Trustee to enter into the Pledge Agreement, and to have authorized and empowered the Collateral Trustee to bind the Holders of Notes as set forth in the Pledge Agreement and to perform its obligations and exercise its rights and powers thereunder, including entering into amendments permitted by the terms of the Indenture or the Pledge Agreement.

(C) Notwithstanding anything to the contrary set forth in this Indenture or in any other Collateral Document, neither the Trustee nor the Collateral Agent shall be responsible for the existence, genuineness or value of any of the Collateral, or for the creation, validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Grantors to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral.

(D) The Trustee shall have no obligation to give, execute, deliver, file, record, authorize or obtain any financing statements, notices, instruments, documents, agreements, consents or other papers as shall be necessary to (i) create, preserve, perfect or validate the security interest granted to the Collateral Agent or the Collateral Trustee pursuant to the this Indenture or the Pledge Agreement or the other Collateral Documents or (ii) enable the Collateral Trustee to exercise and enforce its rights under this Indenture or the Pledge Agreement or the other Collateral Documents with respect to such pledge and security interest. In addition, the Trustee shall have no responsibility or liability (i) in connection with the acts or omissions of the Company in respect of the foregoing or (ii) for or with respect to the legality, validity and enforceability of any security interest created in the Collateral or the perfection and priority of such security interest.

(E) Within 60 days of the Issue Date (or such later date agreed to by the Collateral Trustee in its sole discretion), the Company will cause the Mortgagor to deliver to the Collateral Trustee under the Collateral Trustee Agreement Mortgages encumbering the Mortgaged Property and deliver to the Collateral Trustee an Opinion of Counsel of Kean Miller LLP, dated on or before the date of the Mortgages, and covering matters customary in similar transactions, in a form and substance reasonably satisfactory to the Collateral Trustee under the Collateral Trust Agreement.

Section 12.03. [Reserved].

Section 12.04. Possession, Use and Release of Collateral.

(A) Each Holder, by accepting a Note, consents and agrees to the provisions of the Collateral Documents and this Indenture governing the possession, use and release of Collateral. Each Holder, by accepting a Note, consents and agrees that Collateral may, and, as applicable, shall, be released or substituted in accordance with the terms of this Supplemental Indenture and the Collateral Documents.

(B) The Collateral Trustee's Liens upon the Collateral shall automatically be released in whole, upon payment in full and discharge of all outstanding Secured Obligations or in accordance with the final paragraph of **Section 9.01**.

(C) In addition to the foregoing, Liens on Collateral securing the Notes will be entitled to be released under the following circumstances:

(1) with the consent of the Holders in accordance with **Section 9.02** of this Supplemental Indenture; or

(2) if (a) the Pledged Collateral is sold, transferred or otherwise disposed of by the Pledgor to the Issuer or a Wholly Owned Subsidiary in a transaction permitted by this Indenture; provided that such transferee shall promptly deliver to the Collateral Trustee a fully executed pledge agreement substantially in the form of the Pledge Agreement with respect to the Pledged Collateral or (b) the Mortgaged Property is sold, transferred or otherwise disposed of by the Mortgagor to ProductionCo or a Wholly Owned Subsidiary thereof in a transaction permitted by this Indenture; provided that such transferee shall promptly deliver to the Collateral Trustee fully executed mortgages substantially in the form of the Mortgages with respect to the Mortgaged Property.

(D) The Collateral Trustee shall execute and deliver all such authorizations and other instruments and take such actions (and the Holders will be deemed to have consented to and authorized the Collateral Trustee to execute and deliver any such authorization or instrument and take any such action) as shall reasonably be required by the Collateral Trustee to evidence, confirm and effectuate any release of Collateral provided for in **Section 12.04(B)** and (C).

(E) The Trustee, the Collateral Agent and the Collateral Trustee shall be entitled to receive an Opinion of Counsel and Officers' Certificate in connection with any release of Liens evidencing compliance with the terms of this Indenture and the Collateral Documents.

Section 12.05. Suits to Protect Collateral.

Subject to **Sections 13.01** and **13.02** of this Indenture and the provisions of the Collateral Documents, the Trustee or Collateral Agent may, in their sole discretion and without the consent of the Holders, on behalf of the Holders, and shall at the direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes, take all actions it deems necessary or appropriate in order to enforce any of the terms of the Collateral Documents and collect and receive any and all amounts payable in respect of the Secured Obligations. Subject to the provisions of the Collateral Documents, each of the Trustee and Collateral Agent shall have power, exercisable in its sole discretion and without the consent of the Holders, or at the direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes, to institute and to maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of the Collateral Documents or the Indenture, and such suits and proceedings as the Trustee or Collateral Agent may deem necessary to protect its interests and the interests of the Trustee or Collateral Agent and the Holders in the Collateral.

Section 12.06. Powers Exercisable by Receiver, Trustee or Collateral Agent.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this **Article XII** and the Collateral Documents upon the Issuer with respect to the release, sale or other disposition of such property may be exercised by such receiver, trustee or the Collateral Agent, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or of any Officer or Officers of the Issuer required by the provisions of this **Article XII**.

Section 12.07. Determinations Relating to Collateral.

In the event (i) the Trustee or Collateral Agent shall receive any written request from the Issuer under the Collateral Documents for consent or approval with respect to any matter or thing relating to the Collateral or the Issuer's obligations with respect thereto, (ii) there shall be required from the Trustee or Collateral Agent under the provisions of the Collateral Documents any performance or the delivery of any instrument or (iii) a Responsible Officer of the Trustee and an Officer of the Collateral Agent shall receive written notice of any nonperformance by the Issuer of any covenant or any breach of any representation or warranty of the Issuer set forth in the Collateral Documents, and, in the case of clause (i), (ii) or (iii) above, the Trustee or Collateral Agent reasonably believes that the Trustee's or Collateral Agent's response or action is not otherwise specifically contemplated hereunder or under the Collateral Documents, then, in each such event, the Trustee or Collateral Agent shall, within 30 Business Days, advise the

Holders, in writing and at the Issuer's expense, of the matter or thing as to which consent has been requested or the performance or instrument required to be delivered or the nonperformance or breach of which it has received written notice. The Holders of not less than a majority in aggregate principal amount of the then outstanding Notes pursuant to **Section 8.05** of this Supplemental Indenture shall have the exclusive authority to direct the response of the Trustee or the Collateral Agent, as the case may be, to any of the circumstances contemplated in clauses (i), (ii) and (iii) above.

Section 12.08. [Reserved].

Section 12.09. [Reserved].

Section 12.10. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released herefrom in accordance with the Collateral Documents shall be bound to ascertain the authority of the Trustee or Collateral Agent to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or grantee of any property or rights permitted by the Indenture to be sold or otherwise disposed of by the Issuer be under any obligation to ascertain or inquire into the authority of the Issuer to make such sale or other disposition.

Article 13. TRUSTEE

Section 13.01. Duties of Trustee.

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

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

(i) The Trustee need perform only those duties that are specifically set forth in this Indenture and no others.

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel furnished to the Trustee and conforming to the requirements of this Indenture;

however, in the case of any such Officer's Certificates or Opinions of Counsel which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such Officer's Certificates and Opinions of Counsel to determine whether or not they conform to the form requirements of this Indenture.

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

(i) This paragraph does not limit the effect of **Section 13.01(B)**.

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

(iii) The Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it with respect to the Notes in good faith in accordance with the direction of the Holders of a majority in principal amount of the outstanding Notes relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Notes in accordance with **Section 8.05** of this Indenture.

(iv) Every provision of this Indenture that in any way relates to the Trustee is subject to this **Section 13.01** and **Section 13.02**.

(v) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably satisfactory to it, in its sole discretion, against the costs, expenses and liabilities that might be incurred by it in performing such duty or exercising such right or power.

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

(vii) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers, if adequate indemnity against such risk is not assured to the Trustee to its satisfaction.

(viii) The Paying Agent, the Registrar and any authenticating agent shall be entitled to the protections and immunities as are set forth in clauses (v), (vi) and (vii) of this **Section 13.01(C)**, **Section 13.02** and **Section 13.07**, each with respect to the Trustee.

Section 13.02. Rights of Trustee.

(A) The Trustee may conclusively rely on and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

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

(C) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care. No Depository shall be deemed an agent of the Trustee and the Trustee shall not be responsible for any act or omission by any Depository.

(D) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers, provided that the Trustee's conduct does not constitute willful misconduct or negligence.

(E) The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder without willful misconduct or negligence, and in reliance thereon.

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

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

(H) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture and states that it is a notice of Default or Event of Default.

(I) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and, with respect to such permissive rights, the Trustee shall not be answerable for other than its negligence or willful misconduct.

(J) In no event shall the Trustee be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(K) The Trustee shall be entitled to request and receive written instructions from the Company or the Holders and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with the written direction of the Company or the Holders.

(L) The Trustee is not responsible for monitoring the performance of other persons or for the failure of others to perform their duties, including the Company, the Collateral Agent (including in its capacity as Secured Parity Lien Representative) or the Collateral Trustee.

(M) Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is the Holder of any Note, shall be conclusive and binding upon future Holders of Notes, and upon Notes executed and delivered in exchange therefor or in place thereof.

(N) The Trustee shall not be required to give any bond or surety in respect to the execution of trusts and powers under this Indenture.

(O) The Trustee shall not be responsible for, have any duties or obligations under, or be chargeable with knowledge of the terms and conditions of, any agreement to which it is not a party regardless of whether it has been provided a copy of such agreement.

(P) To the extent Holders are entitled to any consideration in the form of Common Stock or to cash consideration with respect to any Common Stock, and the Trustee determines it shall be necessary to receive such information and provides notice to both the Company and the Holders of such request, the Trustee shall be entitled to receive and conclusively rely upon certificates, notices or such other documents reasonably satisfactory to the Trustee delivered to it from the Company or the Holders with respect any such consideration; provided that to the extent any information provided by Holders with respect thereto is inconsistent with information provided by the Company, the information from any such Holder shall control.

Section 13.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or an Affiliate of the Company with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. The Trustee is also subject to **Sections 13.10** and **13.11** of this Indenture.

Section 13.04. Trustee's Disclaimer.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes or any other Transaction Document, it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement in the Notes other than its authentication.

Section 13.05. [Reserved].

Section 13.06. [Reserved].

Section 13.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time compensation for its services as the Company and the Trustee shall from time to time agree upon in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall pay or reimburse the Trustee upon request for all reasonable out-of-pocket disbursements, expenses and advances incurred or made by it in accordance with the provisions of this Indenture. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel.

The Company shall indemnify each of the Trustee and any predecessor Trustee and each of their respective officers, directors, employees, shareholders, attorneys-in-fact and agents for, and hold it harmless against, any claim, action, suit or proceeding at law or in equity, damage, demand, expense (including but not limited to reasonable compensation, disbursements and expenses of the Trustee's agents and counsel), loss, expenses, fees or charges (including taxes (other than taxes based upon the income of the Trustee)) or liability incurred by them without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust and their rights or duties hereunder including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder (including enforcement of this indemnity). The Trustee shall notify the Company promptly of any third party claim for which it may seek indemnity. The Company shall defend such claim and the Trustee shall cooperate in the defense. The Trustee may have one separate counsel (plus local counsel, if applicable) and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably

withheld. This indemnification shall apply to officers, directors, employees, shareholders and agents of the Trustee.

The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee or by any officer, director, employee, shareholder or agent of the Trustee through willful misconduct or negligence.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of and interest on the Notes.

When the Trustee incurs expenses or renders services after an Event of Default specified in **Sections 8.01(A)(ix)** and **8.01(A)(x)** of this Indenture occurs, the expenses and the compensation for the services are intended to constitute administrative expenses for purposes of priority under any Bankruptcy Law.

The Company's obligations under this **Section 13.07** of this Indenture and any Lien arising hereunder shall survive the resignation or removal of the Trustee, the repayment of the Securities, the discharge of the Company's obligations pursuant to **Article 13** of this Indenture and any rejection or termination of this Indenture under any Bankruptcy Law.

Section 13.08. Replacement of Trustee.

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

The Trustee may resign with respect to the Notes by so notifying the Company at least 30 days prior to the date of the proposed resignation. The Holders of a majority in principal amount of the Notes may remove the Trustee with respect to that Series by so notifying the Trustee and the Company at least 30 days prior to the requested date of removal. The Company may remove the Trustee with respect to the Notes if:

- (a) the Trustee fails to comply with **Section 13.10** of this Indenture;
- (b) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

If a successor Trustee with respect to the Notes does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least a majority in principal amount of the Notes may, at the sole expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee subject to the Lien provided for in **Section 13.07** of this Indenture, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee with respect to the Notes for which it is acting as Trustee under this Indenture. A successor Trustee shall mail a notice of its succession to each Holder of each such Series. Notwithstanding replacement of the Trustee pursuant to this **Section 13.08** of this Indenture, the Company's obligations under **Section 13.07** of this Indenture hereof shall continue for the benefit of the retiring Trustee with respect to expenses and liabilities incurred by it for actions taken or omitted to be taken in accordance with its rights, powers and duties under this Indenture prior to such replacement.

Section 13.09. Successor Trustee by Merger, Etc.

If the Trustee consolidates with, merges or converts into, or sells or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee, subject to **Section 13.10** of this Indenture.

Section 13.10. [Reserved].

Section 13.11. [Reserved].

Article 14. MISCELLANEOUS

Section 14.01. Notices.

Any notice or communication by the Company or the Trustee to the other will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to the Company:

Tellurian Inc.
1201 Louisiana Street, Suite 3100
Houston, TX 77002
Attention: John Swiger, Senior Vice President and Treasurer

with a copy (which will not constitute notice) to:

Davis Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, Colorado 80202
Attention: John A. Elofson, Esq.

and

Kirkland & Ellis LLP
609 Main Street, Houston, TX 77002
Attention: Rachael L. Lichman

If to the Trustee:

Wilmington Trust, National Association
1100 North Market Street
Wilmington, Delaware 19890
Attention: Tellurian Inc. Notes Administrator

If to the Collateral Agent:

HB Fund LLC c/o Hudson Bay Capital Management LP
28 Havemeyer Place, 2nd Floor
Greenwich, CT 06830
Attention: DI Team

The Company, the Trustee or the Collateral Agent, by notice to the other, may designate additional or different addresses (including electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to the Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register. The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in the Indenture, the Notes or the Collateral Documents, (A) whenever any provision of the Indenture, the Notes or the Collateral Documents requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of the Indenture, the Notes or the Collateral Documents requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Section 14.02. Delivery of Officer's Certificate and Opinion of Counsel as to Conditions Precedent.

Upon any request or application by the Company to the Trustee or the Collateral Agent, as applicable to take any action under the Transaction Documents (other than, with respect to (B)

below, the initial authentication of Notes under the Indenture), the Company will furnish to the Trustee or the Collateral Agent:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, that complies with **Section 14.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in the Indenture and any other applicable Transaction Document relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, that complies with **Section 14.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 14.03. Statements Required in Officer's Certificate and Opinion of Counsel.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 4.03**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in the Indenture and any other applicable Transaction Document will include:

(A) a statement that the signatory thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained therein are based;

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

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

Section 14.04. Rules by the Trustee, the Registrar and the Paying Agent.

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

Section 14.05. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation, provided that this **Section 13.05** shall not limit any such person's liability for fraud or willful misconduct. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 14.06. Governing Law; Waiver of Jury Trial.

THE INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE INDENTURE OR THE NOTES, WILL

BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE TRUSTEE AND THE HOLDERS, BY THEIR ACCEPTANCE OF THE NOTES IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THE INDENTURE OR THE NOTES.

Section 14.07. Submission to Jurisdiction.

Any legal suit, action or proceeding arising out of or based upon the Indenture or the transactions contemplated by the Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party’s address set forth in **Section 14.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 14.08. No Adverse Interpretation of Other Agreements.

Neither the Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret the Indenture or the Notes.

Section 14.09. Successors.

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

Section 14.10. Force Majeure.

The Trustee, the Collateral Agent and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under the Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil or military unrest, local or national disturbance or disaster, act of terrorism, disease, earthquake, fire, flood, sabotage, epidemic, pandemic, quarantine, riot, labor dispute, accidents, interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service, malware or ransomware attack or unavailability of the Federal Reserve Bank wire or other wire or communication facility).

Section 14.11. U.S.A. PATRIOT Act.

The Company acknowledges that, in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions, in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the

Trustee. The Company agrees to provide the Trustee with such information as it may request to enable the Trustee to comply with the U.S.A. PATRIOT Act.

Section 14.12. Calculations.

The Company will be responsible for making all calculations called for under the Indenture or the Notes, including determinations of the accrued interest on the Notes.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Trustee may rely conclusively on the accuracy of the Company's calculations without independent verification.

For the avoidance of doubt, the Trustee will not have any responsibility to make any calculations called for under the Indenture, nor will the Trustee be charged with knowledge of or have any duties to monitor the price of the Common Stock. The Trustee may rely conclusively on the calculations and information provided to them by the Company as to any calculations made pursuant to the Indenture.

Section 14.13. Severability.

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

Section 14.14. Counterparts.

This Supplemental Indenture may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. Each party hereto accepts the foregoing and any document received in accordance with this **Section 14.14** shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this agreement.

The words "execution," "execute," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the each of the parties hereto, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. The Trustee will be entitled to assume, without liability, the authenticity of any signature that is presented to it in compliance with the preceding sentence, *provided, that*, notwithstanding anything herein to the contrary, the Trustee is not under any obligation to agree to accept electronic signatures in any form or in any format

unless expressly agreed to by the Trustee pursuant to reasonable procedures approved by the Trustee.

Each of the parties hereto represents and warrants to the other parties that it has the corporate capacity and authority to execute this Supplemental Indenture through electronic means and there are no restrictions for doing so in that party's constitutive documents.

Section 14.15. Table of Contents, Headings, Etc.

The table of contents and the headings of the Articles and Sections of the Indenture have been inserted for convenience of reference only, are not to be considered a part of the Indenture and will in no way modify or restrict any of the terms or provisions of the Indenture.

Section 14.16. [Reserved].

Section 14.17. [reserved]

Section 14.18. Global Securities.

Notwithstanding anything contained in the Base Indenture, the Notes may not be issued in the form of Global Securities.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

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

Tellurian Inc.

By: _____
Name:
Title:

Wilmington Trust, National Association, as Trustee

By: _____
Name:
Title:

HB Fund LLC, as the Collateral Agent

By: Hudson Bay Capital Management LP
Not individually, but solely as
Investment Advisor to HB Fund LLC

By: _____
Name: George Antonopoulos
Title: Authorized Signatory*

*Authorized Signatory
Hudson Bay Capital Management LP
Not individually, but solely as
Investment Advisor to HB Fund LLC.

[Signature Page to Eighth Supplemental Indenture]

FORM OF NOTE

TELLURIAN INC.

10.00% Senior Secured Note due 2025

CUSIP No.: [] Certificate No. []
ISIN No.: []

Tellurian Inc., a Delaware corporation, for value received, promises to pay to [], or its registered assigns, the principal sum of two hundred and fifty million dollars (\$250,000,000) on October 1, 2025 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: January 1, April 1, July 1 and October 1 of each year, commencing on [date].

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

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Tellurian Inc. has caused this instrument to be duly executed as of the date set forth below.

Tellurian Inc.

Date: ____ By: ____

Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Wilmington Trust, National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

TELLURIAN INC.

10.00% Senior Secured Note due 2025

This Note is one of a duly authorized issue of notes of Tellurian Inc., a Delaware corporation (the “**Company**”), designated as its 10.00% Senior Secured Notes due 2025 (the “**Notes**”), all issued or to be issued pursuant to an indenture (the “**Base Indenture**”), dated as of June 3, 2022, between the Company and Wilmington Trust, National Association, as trustee, and a Eighth Supplemental Indenture, among the Company, Wilmington Trust, National Association, as trustee, and HB Fund LLC, as collateral agent (as the same may be amended from time to time, the “**Supplemental Indenture**,” and the Base Indenture, as amended by the Supplemental Indenture, and as the same may be further amended or supplemented from time to time with respect to the Notes, the “**Indenture**”), dated as of [], 2023. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee, the Collateral Agent and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Supplemental Indenture. Stated Interest on this Note will begin to accrue from, and including, [date].

2. **Maturity.** This Note will mature on October 1, 2025, unless earlier repurchased, or redeemed.

3. **Method of Payment.** Cash amounts and shares of Common Stock due on this Note will be paid in the manner set forth in Sections 2.04 and 3.01 of the Supplemental Indenture.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** Subject to the other terms of the Indenture, if a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 5.02 of the Supplemental Indenture.

7. **Right of the Holder to Redeem the Notes.** Subject to the other terms of the Indenture, each of the Company and the Holder will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 5.03 of the Indenture.

8. **When the Company May Merge, Etc.** Article 7 of the Supplemental Indenture places limited restrictions on the Company’s ability to be a party to a Business Combination Event.

9. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 8 of the Supplemental Indenture.

10. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Supplemental Indenture or the Notes in the manner, and subject to the terms, set forth in Article 9 of the Supplemental Indenture.

11. **Collateral.** The obligations of the Company under the Indenture and this Note are secured by the Collateral, as set forth in the Collateral Documents. The Collateral may be released in certain circumstances set forth in Section 9.01 of the Supplemental Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Stockholders.** No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

14. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

15. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Tellurian Inc.
1201 Louisiana Street, Suite 31000
Houston, TX 77002
Attention: Legal Department

ASSIGNMENT FORM

TELLURIAN INC.

10.00% Senior Secured Notes due 2025

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: ___

Address: ___

Social security or
tax identification
number: ___

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

In connection with any transfer of the within Note, the undersigned Holder confirms that the within Note is being transferred in accordance with its terms:

CHECK ONE BOX BELOW

1. to the Company;
2. pursuant to an effective registration statement under the Securities Act of 1933;
3. inside the United States to a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933;
4. pursuant to the exemption from registration provided by Rule 144 under the Securities Act of 1933; or
5. pursuant to any other exemption from registration under the Securities Act of 1933.

Unless one of the boxes is checked, the Registrar will refuse to register the within Note in the name of any person other than the registered holder thereof; *provided, however*, that the Registrar shall be entitled to require, prior to registering any such transfer of the within Note, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933, such as the exemption provided by Rule 144 under such Act.

Date: _____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature _____
Guarantee Medallion Program

Authorized Signatory By: _____

[RESERVED]

B-1

|||

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

TELLURIAN INC.

10.00% Senior Secured Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

the entire principal amount of

\$ _____¹ aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that this Notice, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: ____ ____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: _____

¹ Must be an Authorized Denomination.

[Reserved.]

EXHIBIT D

D-1

|||

[RESERVED]

EXHIBIT E

[RESERVED]

EXHIBIT F

F-1

SCHEDULE OF SHARE ISSUANCE DATES

(1)	(2)
Share Issuance Date	No of Shares
October 1, 2023	740,741
January 1, 2024	1,111,111
April 1, 2024	1,111,111
July 1, 2024	1,111,111
October 1, 2024	1,111,111
January 1, 2025	1,111,111
April 1, 2025	1,111,111
July 1, 2025	1,111,111
October 1, 2025	1,111,111
	9,629,629

Exhibit C-2

Form of Ninth Supplemental Indenture

TELLURIAN INC.

and

WILMINGTON TRUST, NATIONAL ASSOCIATION

as Trustee

and

HB FUND LLC
as Collateral Agent

NINTH SUPPLEMENTAL INDENTURE

Dated as of August [●], 2023

6.00% Senior Secured Convertible Notes due 2025

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NINTH SUPPLEMENTAL INDENTURE, dated as of August [●], 2023, among Tellurian Inc., a Delaware corporation, as issuer (the “**Company**”), and Wilmington Trust, National Association, as trustee (the “**Trustee**”) and HB Fund LLC as collateral agent (the “**Collateral Agent**”).

This Supplemental Indenture (as defined below) is being executed and delivered pursuant to Sections 2.2 and 9.1(h) of the Base Indenture (as defined below) to establish the terms, and provide for the issuance, of a new series of Securities (as defined in the Base Indenture) constituting the Company’s 6.00% Senior Secured Convertible Notes due 2025 (the “**Notes**”).

Each party to this Supplemental Indenture agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Notes.

**Article 1. DEFINITIONS; RULES OF CONSTRUCTION;
SCOPE AND INTERPRETATION OF BASE INDENTURE**

Section 1.01. Definitions.

Subject to the last paragraph of **Section 1.03** and the second sentence of **Section 1.04(A)**, capitalized terms used in this Supplemental Indenture without definition have the respective meanings ascribed to them in the Base Indenture. For purposes of the Notes, the following additional definitions will apply and supersede any conflicting definitions in the Base Indenture.

“**Acceleration Amount**” means a cash amount equal to the greater of (A) one hundred fifteen percent (115%) of the then outstanding principal amount of the applicable Note plus accrued and unpaid interest; and (B) one hundred fifteen percent (115%) of the product of (i) the Conversion Rate in effect as of the Trading Day immediately preceding the date that the Event of Default occurred; (ii) the total then outstanding principal amount (expressed in thousands) of the applicable Note plus accrued and unpaid interest; and (iii) the average Daily VWAP per share of Common Stock occurring during the ten (10) Trading Days immediately before the date the applicable Event of Default occurred.

“**Affiliate**” means as to any Person, any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

“**Agent**” means any Conversion Agent, Registrar or Paying Agent.

“**Attribution Parties**” means with respect to any Holder, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issue Date, directly or indirectly managed or advised by such Holder’s investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of such Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a “group” (within the meaning of Section 13(d)(3) of the Exchange Act) together with such Holder or any of the foregoing and (iv) any other Persons whose beneficial ownership of the Common Stock would or could be aggregated with such Holder’s and the other Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively such Holder and all other Attribution Parties to the Maximum Percentage.

“**Authorized Denomination**” means, with respect to the Notes, a principal amount thereof equal to one thousand dollars (\$1,000) or any integral multiple of one thousand dollars

(\$1,000) in excess thereof, or, if such principal amount then-outstanding is less than \$1,000, then such outstanding principal amount.

“**Bankruptcy Law**” means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

“**Base Indenture**” means that certain Indenture, dated as of June 3, 2022, between the Company and the Trustee.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

“**Business Day**” means any day other than a Saturday, a Sunday or any day on which the Federal Reserve Bank of New York or the applicable place of payment is authorized or required by law or executive order to close or be closed; provided, however, for clarification, the Federal Reserve Bank of New York or in the applicable place of payment shall not be deemed to be authorized or required by law or executive order to close or be closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of the Federal Reserve Bank of New York or in the applicable place of payment are open for use by customers on such day.

“**Capital Lease**” means, with respect to any Person, any leasing or similar arrangement conveying the right to use any property, whether real or personal property, or a combination thereof, by that Person as lessee that, in conformity with GAAP, is required to be accounted for as a capital lease on the balance sheet of such Person.

“**Capital Lease Obligation**” means, at the time any determination is to be made, the amount of the liability in respect of a Capital Lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“**Cash**” means all cash and liquid funds.

“**Cash Equivalents**” means, as of any date of determination, any of the following: (A) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (B) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor’s Corporation or at least P-1 from Moody’s Investors Service; (C) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor’s Corporation or at least P-1 from Moody’s Investors Service; (D) certificates of deposit or bankers’ acceptances maturing within one (1) year after such date and issued or accepted by any commercial bank organized under the laws of the United States of America or any State thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than one billion dollars (\$1,000,000,000); and (E) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (A) and (B)

above, (ii) has net assets of not less than one billion dollars (\$1,000,000,000), and (iii) has the highest rating obtainable from either Standard & Poor's Corporation or Moody's Investors Service.

“**Close of Business**” means 5:00 p.m., New York City time.

“**Collateral**” means (a) the Mortgaged Property, (b) the Pledged Collateral and (c) all other property and interests in property, including cash and Cash Equivalents, and proceeds thereof now owned and hereafter acquired by a Grantor upon which a Lien is granted under any Collateral Document.

“**Collateral Agent**” means HB Fund LLC, in its capacity as Collateral Agent hereunder.

“**Collateral Documents**” means the Collateral Trust Agreement, the Pledge Agreement, the Mortgages and the Deposit Account Control Agreement.

“**Collateral Trust Agreement**” means that certain collateral trust agreement, dated August [●], 2023, between the Company, the Collateral Agent, as the Convertible Parity Lien Representative, the Secured Collateral Agent (as defined in the Secured Indenture) as the Secured Parity Lien Representative and the Collateral Trustee.

“**Collateral Trustee**” means the Person named as such pursuant to the Collateral Trust Agreement.

“**Common Stock**” means the common stock, \$0.01 par value per share, of the Company, subject to Section 6.08.

“**Company**” means the Person named as such in the first paragraph of this Supplemental Indenture and, subject to **Article 7**, its successors and assigns.

“**Company Order**” means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

“**Contingent Obligation**” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to, without duplication: (A) any Indebtedness or other obligations of another Person, including any such obligation directly or indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable and (B) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices, in each case, for any speculative purpose; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“**Conversion Date**” means, with respect to conversion of a Note (other than a Forced Conversion), the first Business Day on which the requirements set forth in **Section 6.03(A)** to convert such Note are satisfied and with respect to a Forced Conversion of a Note, the Forced Conversion Date.

“**Conversion Price**” means, as of any time, an amount equal to (A) one thousand dollars (\$1,000) *divided by* (B) the Conversion Rate in effect at such time.

“**Conversion Rate**” initially means 512.8205 shares of Common Stock per one thousand dollars (\$1,000) principal amount of Notes; *provided, however,* that the Conversion Rate is subject to adjustment pursuant to **Article 6**; *provided, further,* that whenever the Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

“**Conversion Share**” means any share of Common Stock issued or issuable upon conversion of any Note.

“**Convertible Parity Lien Representative**” means the Collateral Agent, acting as Convertible Parity Lien Representative under the Collateral Trust Agreement, and any successor or assign appointed by the terms of this Indenture.

“**Copyright License**” means any written agreement granting any right to use any Copyright or Copyright registration, now owned or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

“**Copyrights**” means all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof, or of any other country.

“**Daily VWAP**” means, for any Trading Day, the per share volume-weighted average price of the Common Stock as displayed under the heading “Bloomberg VWAP” on the principal, in terms of volume, U.S. national or regional securities exchange on which the Common Stock is listed for trading, Bloomberg page “TELL <EQUITY> VAP” (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or, if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

“**Default**” means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

“**Deposit Account Control Agreement**” means, with respect to the deposit account(s) and/or securities accounts(s) established or owned by the Company, an agreement(s), in form and substance satisfactory to the Collateral Trustee in its sole discretion, establishing “control” (as defined in the UCC) of such deposit account and/or securities account by the Collateral Trustee.

“**Disqualified Stock**” means, with respect to any Person, any Equity Interests that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder) or upon the happening of any event:

(A) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise;

(B) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Equity Interests convertible or exchangeable solely at the option of the issuer or a Subsidiary);

provided that any such conversion or exchange will be deemed an incurrence of Indebtedness or Disqualified Stock, as applicable); or

(C) is redeemable at the option of the holder thereof, in whole or in part,

in the case of each of clauses (A), (B) and (C), at any point prior to the ninety-first (91st) day after the Maturity Date (except, in each case, for customary mandatory prepayment or offers to prepay with proceeds of asset sales or casualty events or indebtedness not permitted thereunder or upon occurrence of a change of control).

“**Driftwood Companies**” means Driftwood LNG Holdings LLC and its Subsidiaries.

“**Driftwood Financing**” means (i) the Sale and Leaseback Transaction, (ii) all Indebtedness of any Driftwood Company and any of their Subsidiaries that is not guaranteed or secured by the Company or any of the Company’s Subsidiaries (other than the Driftwood Companies and their Subsidiaries), (iii) all Indebtedness of Driftwood Pipeline LLC that is not guaranteed or secured by the Company or any of the Company’s Subsidiaries (other than the Driftwood Pipeline LLC, Driftwood Companies and their Subsidiaries), and (iv) all unsecured Indebtedness of the Company or any its Subsidiaries (other than ProductionCo or its Subsidiaries) and all unsecured debt (including term loan, delayed draw, revolving credit, or letter of credit facilities, hedging arrangements, mezzanine and holdco financings), equity (including equity-linked) and mezzanine financing(s) of any kind entered into by the Company or any of its Subsidiaries (other than ProductionCo or its Subsidiaries) to the extent in the case of clause (iv) that (x) the proceeds of any such financing will be used for the payment of any amounts (or reimbursement thereof) for the development, construction, financing, ownership, operation or maintenance of the Driftwood Project, and any extensions, refinancings, replacements and/or renewals thereof, provided that, in each case any such Indebtedness or debt shall not have a final maturity date, amortization payment, sinking fund, put right, mandatory redemption or other repurchase obligation at the option of the lender or holder of such Indebtedness or debt, in any case earlier than one hundred eighty-one (181) days following the Maturity Date (except, in each case, for (i) customary mandatory prepayments or offers to prepay with proceeds of asset sales or casualty events or indebtedness not permitted thereunder or upon the occurrence of a change of control) and (y) neither ProductionCo nor ProductionCo’s Subsidiaries may participate in or guarantee such financings; provided that, notwithstanding anything to the contrary in this definition, any Driftwood Financing may be secured by a pledge of the Equity Interests of Driftwood LNG Holdings LLC and/or Driftwood Pipeline LLC and the Contingent Obligations of any pledgor thereof (other than ProductionCo or ProductionCo’s Subsidiaries) arising from such pledge in respect of the Equity Interests pledged therein shall be permitted.

“**Driftwood Project**” means the design, construction, financing, maintenance and operation of an LNG terminal facility and associated pipelines referred to as the Driftwood terminal, the Driftwood pipeline and other related pipelines in the Company’s Annual Report on Form 10-K filed with the SEC on February 23, 2022.

“**Eligible Exchange**” means any of The New York Stock Exchange, NYSE American, The Nasdaq Capital Market, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors).

“**Equipment**” means all “**equipment**” as defined in the UCC with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“**Equity Conditions**” will be deemed to be satisfied as of any date if all of the following conditions are satisfied as of such date: (A) the shares issuable upon conversion of the Notes are Freely Tradable; (B) the Holder is not in possession of any material non-public information provided by or on behalf of the Company; (C) the Company is in compliance with **Section 6.05** and such shares will satisfy **Section 6.05**; (D) no public announcement of a pending, proposed or intended Fundamental Change has occurred that has not been abandoned, terminated or consummated; (E) the daily dollar trading volume (as reported on Bloomberg) of the Common Stock on an Eligible Exchange is not less than ten million dollars (\$10,000,000) and (F) no Event of Default will have occurred and be continuing.

“**Equity Interests**” of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, including membership interests and/or limited liability company interests (however designated, whether voting or non-voting) of the equity of such Person, including, if such person is a partnership, partnership interests (whether general or limited), if such Person is a limited liability company, membership interests and/or limited liability company interests, and, if such Person is a trust, all beneficial interests therein, and shall also include any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property of, such corporation, partnership, limited liability company or trust, whether outstanding on the date hereof or issued on or after the date hereof, excluding, in each case, any debt securities convertible into such equity.

“**Ex-Dividend Date**” means, with respect to an issuance, dividend or distribution on the Common Stock, the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Stock under a separate ticker symbol or CUSIP number will not be considered “regular way” for this purpose.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Forced Conversion Trigger**” means (A) the Last Reported Sale Price exceeds three hundred percent (300%) of the Conversion Price on each of twenty (20) consecutive Trading Days beginning after the Issue Date, (B) the Equity Conditions are satisfied on each of such twenty (20) consecutive Trading Days, provided that, solely for the purposes of this definition, the condition set forth in Clause (F) of the definition of “Equity Conditions” shall only apply to the Events of Default set forth in Sections 8.01(A)(i)-(iii).

“**Freely Tradable**” means, with respect to any shares of Common Stock issued or issuable upon conversion of a Note, that (A) such shares would be eligible to be offered, sold or otherwise transferred by the Holder pursuant to Rule 144, without any requirements as to volume, manner of sale, availability of current public information (whether or not then satisfied) or notice under the Securities Act and without any requirement for registration under any state securities or “blue sky” laws; or (B) such shares are (or, when issued, will be) (i) eligible for immediate resale pursuant to an effective registration statement under the Securities Act and are represented by book-entries at DTC and identified therein by an “unrestricted” CUSIP number; (ii) not represented by any certificate that bears a legend referring to transfer restrictions under the Securities Act or other securities laws; and (iii) listed and admitted for trading, without suspension on trading, on an Eligible Exchange; and (C) no delisting or suspension by such Eligible Exchange has been threatened (with a reasonable prospect of delisting occurring after giving effect to all applicable notice, appeal, compliance and hearing periods) or is reasonably likely to occur or pending as evidenced by a writing by such Eligible Exchange.

“**Fundamental Change**” means any of the following events:

(A) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or the employee benefit plans of the Company or its Wholly Owned Subsidiaries, files any report with the SEC indicating that such person or group has become the direct or indirect “beneficial owner” (as defined below) of shares of the Company’s common equity representing more than fifty percent (50%) of the voting power of all of the Company’s then-outstanding common equity;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person (other than solely to one or more of the Company’s Wholly Owned Subsidiaries) (excluding, for the avoidance of doubt, any Driftwood Financing); or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property (other than a subdivision or combination, or solely a change in par value, of the Common Stock); provided, however, that any merger, consolidation, share exchange, combination or acquisition of the Company pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined below) all classes of the Company’s voting common equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than fifty percent (50%) of all classes of voting common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company’s stockholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) the Common Stock ceases to be listed on any Eligible Exchange;

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)(i) or (ii)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); and (y) whether a Person is a “beneficial owner” and whether shares are “beneficially owned” will be determined in accordance with Rule 13d-3 under the Exchange Act.

“**Fundamental Change Base Repurchase Price**” means, with respect to the Notes (or any portion of any Note) to be repurchased upon a Repurchase Upon Fundamental Change, a cash amount equal to the greater of (A) one hundred fifteen percent (115%) of the then outstanding principal amount of the applicable Note; and (B) one hundred fifteen percent (115%) of the product of (i) the Conversion Rate in effect as of the Trading Day immediately preceding the date the Fundamental Change Repurchase Notice is delivered; (ii) the total then outstanding principal amount (expressed in thousands) of the applicable Note; and (iii) the average Daily VWAP per share of Common Stock occurring during the ten (10) Trading Days immediately before the date of such Fundamental Change.

“**Fundamental Change Repurchase Date**” means the date as of which any Note must be repurchased for cash in connection with a Fundamental Change, as provided in **Section 4.02**.

“**Fundamental Change Repurchase Notice**” means a notice (including a notice substantially in the form of the “Fundamental Change Repurchase Notice” set forth in **Exhibit**

C) containing the information, or otherwise complying with the requirements, set forth in **Section 5.02(F)(i)** and **Section 5.02(F)(ii)**.

“**Fundamental Change Repurchase Price**” means the cash price payable by the Company to repurchase any Note (or any portion of such Note) upon a Repurchase Upon Fundamental Change, calculated pursuant to **Section 5.02(D)**.

“**GAAP**” means generally accepted accounting principles in the United States of America, as in effect from time to time; provided the definitions set forth in the Indenture or any Note and any financial calculations required thereby shall be computed to exclude any change to lease accounting rules from those in effect pursuant to Financial Accounting Standards Board Accounting Standards Codification 840 (Leases) and other related lease accounting guidance as in effect on the date hereof.

“**Grantors**” means (a) the Pledgor, (b) the Mortgagor and (c) Company in their respective capacity as a grantor of a Lien under the Deposit Account Control Agreement.

“**Holder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Indebtedness**” means indebtedness of any kind, including, without duplication (A) all indebtedness for borrowed money or the deferred purchase price of property or services (excluding trade credit entered into in the ordinary course of business due within one hundred eighty (180) days), including reimbursement and other obligations with respect to surety bonds and letters of credit, (B) all obligations evidenced by notes, bonds, debentures or similar instruments, (C) all Capital Lease Obligations, (D) all Contingent Obligations, and (E) Disqualified Stock.

“**Indenture**” means the Base Indenture, as amended by this Supplemental Indenture, and as the same may be further amended or supplemented from time to time.

“**Intellectual Property**” means all Copyrights; Trademarks; Patents; Licenses; trade secrets and inventions; mask works; applications therefor and reissues, extensions, or renewals thereof; together with all rights to sue for past, present and future infringement of Intellectual Property and the goodwill associated therewith.

“**Interest Payment Date**” means, with respect to a Note, each January 1, April 1, July 1 and October 1 of each year, commencing on October 1, 2023 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

“**Investment**” means with respect to any Person, any beneficial ownership (including stock, partnership or limited liability company interests) of or in any other Person, or any loan, advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person.

“**Issue Date**” means August [●], 2023.

“**Issuer**” means the Person named as such in the first paragraph of this Supplemental Indenture and, subject to **Article 7**, its successors and assigns.

“**Leaseback Assets**” means approximately 800 acres of land owned and/or leased by Driftwood LNG LLC, a wholly owned indirect subsidiary of the Company, to be used for the Driftwood Project.

“Last Reported Sale Price” of the Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of Common Stock on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is then listed. If the Common Stock is not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per share of Common Stock on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per share of Common Stock on such Trading Day from a nationally recognized independent investment banking firm selected by the Company.

“License” means any Copyright License, Patent License, Trademark License or other written license of rights or interests.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any lease in the nature of a security interest; provided, that licenses, strain escrows and similar provisions in collaboration agreements, research and development agreements that do not create or purport to create a security interest, encumbrance, levy, lien or charge of any kind shall not be deemed to be Liens for purposes of the Notes and the Indenture.

“Liquidity Threshold” means the Company’s Liquidity required to be equal to or greater than (a) seventy five million dollars (\$75,000,000) (if the Secured Notes are not outstanding at such time); and (b) two hundred and fifty million dollars (\$250,000,000) (if any of the Secured Notes are outstanding at such time); provided that in the case of both (a) and (b), such Cash and Cash Equivalents shall be held in accounts (x) in which the Company and/or the applicable Subsidiaries have granted the Collateral Trustee a security interest in form and substance acceptable to the Collateral Trustee and (y) with a Deposit Account Control Agreement in effect with each of such accounts; provided further, that such Deposit Account Control Agreement(s) shall (I) be “fully blocked”/“access restricted” or similar Deposit Account Control Agreement(s) that do not allow the Company and its Subsidiaries access to the accounts nor permit the Company and its Subsidiaries to access the amounts and assets on deposit or credited to such deposit accounts without the consent of the Collateral Trustee (“**Blocked DACA**”) and (II) perfect the Collateral Trustee’s security interest in such accounts.

“Mandatory Redemption” means any Redemption pursuant to Section 5.03(B)(i).

“Market Disruption Event” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts traded on such exchange or market relating to the Common Stock.

“Material Adverse Effect” means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole, (ii) the business, properties,

assets, liabilities, operations (including results thereof), or condition (financial or otherwise) of ProductionCo and its Subsidiaries, taken as a whole, (iii) the transactions contemplated hereby or in any of the other Transaction Documents or any other agreements or instruments to be entered into in connection herewith or therewith, taken as a whole, or (iv) the authority or ability of the Company or any of its Subsidiaries to perform any of their respective obligations under any of the Transaction Documents.

“**Maturity Date**” means October 1, 2025.

“**Mortgages**” shall mean a mortgage or a deed of trust, deed to secure debt, trust deed, assignment of as-extracted collateral, fixture filing or other security document entered into by the Mortgagor and the Collateral Trustee for the benefit of the Holders, the Trustee, the Convertible Holders and the Convertible Trustee in respect to the Mortgaged Property substantially in such form as to be agreed between the Company and the Collateral Trustee.

“**Mortgaged Property**” shall mean all material real property oil and gas assets of ProductionCo described on Schedule I of the Securities Purchase Agreement.

“**Mortgagor**” shall mean, collectively, ProductionCo and its Wholly Owned Subsidiaries in their applicable capacity as a mortgagor under the Mortgages.

“**Note Agent**” means any Registrar, Paying Agent or Conversion Agent.

“**Note Security**” means any Note or Conversion Share.

“**Notes**” means the 6.00% Senior Secured Convertible Notes due 2025 issued by the Company pursuant to the Indenture.

“**Officer**” means the Chief Executive Officer, the President, the Chief Financial Officer, the Treasurer or any Assistant Treasurer, the Secretary or any Assistant Secretary, or any Vice-President of the Company, whether or not designated by a number or numbers or a word or words added before or after the title “Vice President”.

“**Officer’s Certificate**” means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 14.03**.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Opinion of Counsel**” means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, that meets the requirements of **Section 14.03**, subject to customary qualifications and exclusions.

“**Patent License**” means any written agreement granting any right with respect to any invention on which a Patent is in existence or a Patent application is pending, in which agreement the Company now holds or hereafter acquires any interest.

“**Patents**” means all letters patent of, or rights corresponding thereto, in the United States or in any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto, in the United States or any other country.

“**Permitted Investment**” means any Investments, (i) so long as any such Investments made in connection with ProductionCo Operations must be made by ProductionCo or the Subsidiaries of ProductionCo and (ii) to the extent not otherwise included within the definition of

ProductionCo Operations, any direct or indirect Investments in additional oil and gas and related upstream properties or interests, other hydrogen and mineral interests and gas gathering systems related thereto or related to farm-out, farm-in, joint operating, joint venture or area of mutual interest agreements, gathering systems, pipelines or other similar arrangements which are usual and customary in the oil and gas exploration and production business located within the geographic boundaries of the United States of America must be made by ProductionCo or its Subsidiaries.

“**Permitted Restricted Payments**” means, with respect to any Person, any of the following: (A) repurchases, redemptions, dividends or distributions (other than repurchases or redemptions by ProductionCo while the Pledged Collateral remains subject to the Liens created by the Pledge Agreement) made in the form of the Equity Interests of such Person; (B) payment in lieu of fractional shares of the Equity Interests of such Person in connection with any dividend, split, or combination thereof or any Fundamental Change not prohibited hereby; (C) payments made or expected to be made in respect of withholding or similar taxes payable upon exercise of the Equity Interests of such Person by any future, present or former employee, director, officer, manager or consultant (or their respective controlled Affiliates or permitted transferees), and any repurchases of such Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represents a portion of the exercise price of such options or warrants or required withholding or similar taxes; (D) repurchases, redemptions, dividends or distributions in accordance with incentive compensation plans approved by such Person’s Board of Directors (or equivalent governing body); (E) dividends or distributions by (x) a Wholly Owned Subsidiary of ProductionCo to ProductionCo or one its other Wholly Owned Subsidiaries, (y) ProductionCo, directly or indirectly, to the Company to fund Permitted Company Expenditures and Permitted Investments, and (z) among the Company and its Subsidiaries (other than ProductionCo and its Wholly Owned Subsidiaries); (F) repurchases or redemptions of any class of Equity Interests pursuant to employee, director or consultant repurchase plans or other similar agreements approved by the Board of Directors; (G) other repurchases, redemptions, dividends or distributions effected by the Company or its Subsidiaries other than ProductionCo or its Subsidiaries in an aggregate principal amount not to exceed twenty-five million dollars (\$25,000,000); (H) dividends or distributions by any Driftwood Company to any other Driftwood Company and (I) to the extent constituting a repurchase, redemption or distribution, conversion (at the conversion price in effect as of the date hereof) of the series C preferred shares of the Company held by Bechtel Oil, Gas and Chemicals, Inc. into shares of Common Stock, provided that, notwithstanding the foregoing, none of the foregoing transactions shall qualify as a Permitted Restricted Payment if such transaction would effect a transfer of Collateral to any Person other than to the Pledgor in respect of the Pledge Agreement at the applicable time.

“**Person**” or “**person**” means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

“**Physical Note**” means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

“**Pledge Agreement**” means that certain Pledge Agreement, dated August [●], 2023, between the Tellurian Investments LLC (together with its successors and permitted assigns, the “**Pledgor**”) and the Collateral Trustee (as it may otherwise be amended, modified or supplemented in accordance with **Section 3.25(B)**) or replaced with any new pledge agreement in substantially the same form with respect to the Pledged Collateral pursuant to **Section 3.25(B)**.

“**Pledged Collateral**” has the meaning set forth in the Pledge Agreement.

“**Pledgor**” has the meaning given such term in the definition of “Pledge Agreement”.

“**ProductionCo**” means Tellurian Production Holdings LLC, a Delaware limited liability company.

“**ProductionCo Operations**” means the exploration, drilling and extraction of natural gas and related and resulting products by ProductionCo and its Wholly Owned Subsidiaries.

“**Redemption**” means the repurchase of any Note by the Company pursuant to Section 5.03.

“**Redemption Date**” means on or after October 1, 2024 in the case of a Redemption pursuant to Section 5.03(B)(i).

“**Redemption Price**” means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to Section 5.03(E).

“**Regular Record Date**” has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on January 1, the immediately preceding December 15; (B) if such Interest Payment Date occurs on April 1, the immediately preceding March 15; (C) if such Interest Payment Date occurs on July 1, the immediately preceding June 15; and (D) if such Interest Payment Date occurs on October 1, the immediately preceding September 15.

“**Repurchase Upon Fundamental Change**” means the repurchase of any Note by the Company pursuant to **Section 5.02**.

“**Required Holders**” means the holders of Notes representing at least a majority of the aggregate principal amount of the Notes then outstanding.

“**Responsible Officer**” means (A) any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of such officers; and (B) with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject and, in each case, has direct responsibility for the administration of the Indenture.

“**Rule 144**” means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

“**Sale and Leaseback Transaction**” means the sale and leaseback transaction in connection with the Leaseback Assets contemplated by that certain commitment letter, dated as of July 18, 2023, between the Company and Blue Owl Real Estate Capital LLC.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Secured Collateral Agent**” means the “Collateral Agent” under the Secured Notes Indenture.

“**Secured Notes**” means the 10.00% Senior Secured Notes due 2025 issued by the Company pursuant to that certain Eighth Supplemental indenture, dated as of the date hereof,

entered into by the Company, the Trustee and the Secured Collateral Agent (the “**Secured Notes Indenture**”).

“**Secured Notes Holders**” means the Holder as defined in the Secured Notes.

“**Secured Notes Trustee**” means the Trustee as defined in the Secured Notes.

“**Secured Obligations**” (i) all unpaid principal of and interest on (including, without limitation, interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to the Issuer, to the extent allowed by applicable law, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Notes or Secured Notes, as applicable, and all other obligations and liabilities owed by the Issuer pursuant to the Notes and the Indenture, or the Secured Notes and the Secured Notes Indenture, respectively, including (without limitation) any premium (if any) on all amounts owed by the Issuer under the Notes and the Indenture or the Secured Notes and the Secured Notes Indenture, respectively, including without limitation, redemption amounts under the Notes or Secured Notes, respectively, and (ii) fees, expenses and disbursements that are required to be paid by the Issuer under the Notes, Secured Notes, the Indenture and the Secured Notes Indenture.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securities Purchase Agreement**” means that certain Securities Purchase Agreement, dated as of August 8, 2023, between the Company and certain initial holders of the Notes.

“**Significant Subsidiary**” means, with respect to any Person, any Subsidiary of such Person that constitutes a “significant subsidiary” (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person, provided that, notwithstanding the foregoing, ProductionCo or any Wholly Owned Subsidiary of ProductionCo shall be deemed a Significant Subsidiary at all times for the purposes hereof.

“**Subordinated Indebtedness**” means Indebtedness subordinated to the Notes pursuant to a written agreement between the Required Holders and the applicable lender in amounts and on terms and conditions satisfactory to the Required Holders in their sole discretion.

“**Subsidiary**” means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Equity Interests entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Supplemental Indenture**” means this Ninth Supplemental Indenture, as amended or supplemented from time to time.

“**Trademark License**” means any written agreement granting any right to use any Trademark or Trademark registration, now owned or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

“**Trademarks**” means all trademarks (registered, common law or otherwise) and any applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof.

“**Trading Day**” means any day on which (A) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal, in terms of volume, U.S. national or regional securities exchange on which the Common Stock is listed for trading; and (B) there is no Market Disruption Event; provided that the Holder, by written notice to the Company, may waive any such Market Disruption Event. If the Common Stock is not so listed or traded, then “Trading Day” means a Business Day.

“**Transaction Documents**” means, collectively, the Notes, the Indenture, the Secured Notes Indenture, the Secured Notes and the Collateral Documents.

“**Transfer Agent**” means Broadridge Corporate Issuer Solutions, Inc. and any subsequent transfer agent (as applicable).

“**Transfer Restricted Security**” means any Note that bears or is required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in **Section 2.09**.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended.

“**Trustee**” means the Person named as such in the first paragraph of this Supplemental Indenture, in its capacity as such, until a successor replaces it in accordance with the provisions of the Indenture and, thereafter, means such successor trustee.

“**UCC**” or “**Uniform Commercial Code**” means the Uniform Commercial Code of the State of New York or of any other state the laws of which are required to be applied in connection with the creation, perfection or priority of security interests in any Collateral or as otherwise may be required to apply to any asset.

“**Wholly Owned Subsidiary**” of a Person means any Subsidiary of such Person all of the outstanding Equity Interests or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 1.02. Other Definitions.

Term	Defined in Section
“Accelerated Stock Shortfall Payment Date”	3.01(G)
“Blocked DACA”	Definitions
“Business Combination Event”	6.01(A)
“Buy-In”	3.01(E)
“Certain Company Events”	3.01(D)
“Common Stock Change Event”	3.01(D)
“Company Conversion Notice”	6.01(A)
“Conversion Agent”	2.06(A)
“Conversion Consideration”	6.04(A)
“Conversion Settlement Date”	6.04(C)
“Covering Price”	6.04(D)(i)
“Cure Period”	6.04(D)(i)
“Default Interest”	2.05(B)
“Defaulted Shares”	6.04(A)
“Event of Default”	7.01(A)
“Excess Shares”	5.01(A)
“Expiration Date”	6.06(A)(v)
“Expiration Time”	6.06(A)(v)
“Forced Conversion”	6.01(A)
“Forced Conversion Date”	6.01(B)
“Fundamental Change Notice”	4.02(E)
“Fundamental Change Repurchase Right”	4.02(A)
“Holder Conversion Notice”	6.02(A)
“HSR Act”	5.01(C)
“Initial Notes”	2.03
“Liquidity”	4.14
“Make-Whole Payment”	3.01(H)
“Maximum Percentage”	5.01(A)
“Maximum Percentage Notice”	6.09(A)
“Optional Acceleration Notice”	7.02(B)
“Paying Agent”	2.06(A)
“Redemption Notice”	5.03(F)(i)
“Reference Property”	6.08(A)
“Reference Property Unit”	6.08(A)
“Register”	2.06(B)
“Registrar”	2.06(A)
“Reported Outstanding Share Number”	6.01(A)
“Required Reserve Amount”	3.01(F)
“Secured Notes Indenture”	Definitions
“Share Issuance Date”	3.01(A)
“Specified Courts”	13.07
“Spin-Off”	6.06(A)(iii)(2)
“Spin-Off Valuation Period”	6.06(A)(iii)(2)
“Stated Interest”	2.05(A)
“Stock Shortfall”	3.01(G)
“Stock Shortfall Period”	3.01(G)
“Successor Entity”	6.01(A)(i)
“Undelivered Shares”	3.01(E)

“Successor Person” 6.08(A)

“Tender/Exchange Offer Valuation Period” 6.06(A)

Section 1.03. Rules of Construction.

For purposes of the Indenture:

- (A) “or” is not exclusive;
- (B) “including” means “including without limitation”;
- (C) “will” expresses a command;
- (D) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;
- (E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;
- (F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;
- (G) “herein,” “hereof” and other words of similar import refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision of this Supplemental Indenture, unless the context requires otherwise;
- (H) each Article, Section, clause or paragraph reference in this Supplemental Indenture that is in bolded typeface refers to the referenced Article, Section, clause or paragraph, as applicable, of this Supplemental Indenture;
- (I) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;
- (J) the exhibits, schedules and other attachments to this Supplemental Indenture are deemed to form part of this Supplemental Indenture;
- (K) the term “**interest**,” when used with respect to a Note, includes any Default Interest, unless the context requires otherwise;
- (L) any reference to a law, enactment or regulation shall include reference to any subordinate law, decree, resolution, order, or the like made under the relevant enactment or regulation and is a reference to that enactment, regulation, or subordinate law, decree, resolution, order, or the like as from time to time amended, consolidated, modified, re-enacted, or replaced;
- (M) all references to any agreement or contract, including this Supplemental Indenture, shall be interpreted to mean such agreement or contract, as amended, modified, or supplemented in accordance with its terms from time to time;
- (N) [reserved]; and
- (O) this Indenture shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

For purposes of the Indenture, the following terms of the Trust Indenture Act have the following meanings:

- (i) “**Commission**” means the SEC;
- (ii) “**default**” means “Event of Default”
- (ii) “**indenture securities**” means the Notes;
- (iii) “**indenture security holder**” means a Holder;
- (iv) “**indenture to be qualified**” means the Indenture;
- (v) “**indenture trustee**” or “**institutional trustee**” means the Trustee; and
- (vi) “**obligor**” on the indenture securities means the Company.

All other terms used in the Indenture that are defined by the Trust Indenture Act (including by reference to another statute) or the related rules of the SEC, and not defined in the Indenture, have the respective meanings so defined by the Trust Indenture Act or such rules.

Section 1.04. Interpretation; Scope of Supplemental Indenture; Supersession of Base Indenture.

(A) *Generally.* The amendments to the Base Indenture made by this Supplemental Indenture will apply solely with respect to the Notes and not with respect to any other class or series of Securities. For purposes of the Notes, if any provision of this Supplemental Indenture conflicts with any provision of the Base Indenture, then this Supplemental Indenture will control to the extent of such conflict.

(B) *Applicability of Base Indenture.* For purposes of the Notes,

- (i) Sections 2.3 through 2.15, inclusive, of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with the corresponding provisions of **Article 2**;
- (ii) Articles III and XI of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 5**;
- (iii) Article IV of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 4**;
- (iv) Article V of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 7**;
- (v) Article VI of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 8**;
- (vi) Article VIII of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 10**;
- (vii) Article IX of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 9**;

(viii) Section 7.5 of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Section 8.12**;

(ix) Article VII (except for Section 7.5, as amended herein) of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with **Article 12**; and

(x) Sections 10.1, 10.2, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13 and 10.14 will not apply to the Notes and will instead be deemed to be replaced with **Sections 14.17, 14.01, 14.02, 14.03, 14.04, 2.05(C), 14.05, 14.14, 14.06, 14.08, 14.09, 14.13 and 14.15**, respectively.

Each reference in the Base Indenture to any Articles or Sections of the Base Indenture referred to in the preceding **clauses (i) through (x)**, inclusive, of this **Section 1.04(B)** will, for purposes of the Notes, be deemed instead to be a reference to the respective Articles and Sections (or corresponding part of the respective Articles or Sections) of this Supplemental Indenture referred to in such **clauses**.

Article 2. THE NOTES

Section 2.01. Form, Dating and Denominations.

The Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule. Each Note will be dated as of the date of its authentication.

The Notes will be issued in the form of one or more Physical Notes.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of the Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Supplemental Indenture, agree to such terms and to be bound thereby; *provided, however*, that, to the extent that any provision of any Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control for purposes of the Indenture and such Note.

Section 2.02. Execution, Authentication and Delivery.

(A) *Due Execution by the Company.* At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, facsimile or other electronic signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) *Authentication by the Trustee and Delivery.*

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name and address of the Holder of such Note and the date as of which such Note is to be authenticated; and (c) the delivery address indicating where such Note should be delivered.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under the Indenture, and a Note authenticated as provided in the Indenture by such an agent will be deemed, for purposes of the Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. Initial Notes.

On the Issue Date, there will be originally issued eighty three million and three hundred and thirty four thousand dollars (\$83,334,000) aggregate principal amount of Notes, subject to the provisions of the Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in the Indenture as the “**Initial Notes.**”

Section 2.04. Method of Payment.

(A) [RESERVED]

(B) *Physical Notes.* The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date, pursuant to an Optional Acceleration Notice or otherwise) of, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in the Indenture as follows: (i) if the principal amount of such Physical Note is at least ten thousand dollars (\$10,000) (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Physical Note entitled to such payment has delivered to the Paying Agent or the Trustee, no later than the time set forth in the immediately following sentence, a written request that the Company make such payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and (ii) in all other cases, by check mailed to the address of the Holder of such Physical Note entitled to such payment as set forth in the Register. To be timely, such written request must be so delivered no later than the Close of Business on the following date: (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Regular Record Date; (y) with respect to any cash Conversion Consideration, the relevant Conversion Date; and (z) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due.

Section 2.05. Accrual of Interest; Default Interest; When Payment Date is Not a Business Day.

(A) *Accrual of Interest.* Each Note will accrue interest at a rate per annum equal to 6.00% (the “**Stated Interest**”), plus any Default Interest that may accrue pursuant to **Section**

2.05(B). Stated Interest on each Note will (i) accrue on the principal amount of each Note; (ii) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the Issue Date) to, but excluding, the date of payment of such Stated Interest; (iii) be paid to Holder in cash, subject to **Sections 5.02(D), 5.03(E)** and **6.04** (but without duplication of any payment of interest), quarterly in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date and (iv) be computed on the basis of a 360-day year comprised of twelve 30-day months. Notwithstanding the foregoing, no amount of Stated Interest in excess of the maximum amount permitted by applicable law shall be due and payable under this Indenture or the Notes.

(B) *Default Interest.* If an Event of Default occurs, then, in each case, to the extent lawful, interest (“**Default Interest**”) will accrue on the principal amount then outstanding at a rate per annum equal to twelve percent (12.0%), from, and including, the date of such Event of Default, to, but excluding, the date such Event of Default is cured or waived and all outstanding Default Interest has been paid. Default Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months and, subject to **Section 5.02(D), 5.03(E)** and **6.04** will be payable in arrears on the earlier of (i) the first day of each calendar month and (ii) the date such Event of Default is cured or waived. Notwithstanding the foregoing, no amount of Default Interest in excess of the maximum amount permitted by applicable law shall be due and payable under this Indenture or the Notes. The Company may pay the Default Interest to the Persons who are Holders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date (which special record date shall not be less than 10 days prior to the related payment date) and shall promptly mail to each Holder a notice that states the special record date, the payment date and the amount of Default Interest to be paid.

(C) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on a Note as provided in the Indenture is not a Business Day, then, notwithstanding anything to the contrary in the Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay.

(D) *Classification of Interest Payments.* Unless the context otherwise requires, all references herein to interest, whether accrued or paid, shall refer to cash interest in respect of the Notes, it being understood that Common Stock issued to the Holders pursuant to **Section 3.01** shall be classified as interest payments for tax purposes.²

Section 2.06. Registrar, Paying Agent and Conversion Agent.

(A) *Generally.* The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the “**Registrar**”); (ii) an office or agency in the continental United States where Notes may be presented for payment (the “**Paying Agent**”); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the “**Conversion Agent**”). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar.* The Registrar will keep a record (the “**Register**”) of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the

² Subject to ongoing tax review.

Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents.* The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under the Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to the Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of the Indenture that relate to such Note Agent.

(D) *Initial Appointments.* The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent. None of the Trustee, the Paying Agent, the Registrar or the Conversion Agent shall be deemed an agent for the Company for purposes of service of legal process.

Section 2.07. Paying Agent and Conversion Agent to Hold Property in Trust.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee in writing of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent, or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in the Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **clause (ix) or (x) of Section 8.01(A)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes. Notwithstanding anything to the contrary set forth herein, Trustee shall have no obligation to hold or deliver shares of Common Stock. Any delivery of shares of Common Stock (including any delivery of Common Stock in connection with the enforcement of remedies), shall be made by the Company directly to the Holders through its stock transfer agent and the Trustee shall have no involvement in such delivery.

Section 2.08. Holder Lists.

If the Trustee is not the Registrar, the Company will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

Section 2.09. Legends.

(A) *Legends.*

(i) Except as permitted by the following paragraph (ii), each certificate evidencing the Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form:

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF TELLURIAN INC., A DELAWARE CORPORATION, THAT (A) THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) IN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (II) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (III) PURSUANT TO ANY OTHER EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (IV) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

Each definitive Note shall also bear the following additional legend:

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

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

(B) *Other Legends.* A Note may bear any other legend or text, not inconsistent with the Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(C) *Acknowledgement and Agreement by the Holders.* A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgement of, and agreement to comply with, the restrictions set forth in such legend.

Section 2.10. Transfers and Exchanges; Certain Transfer Restrictions.

(A) *Provisions Applicable to All Transfers and Exchanges.*

(i) Subject to this **Section 2.10**, Physical Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with the Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under the Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11, 2.16** or **8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in the Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under the Indenture or applicable law with respect to any Note Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by the Indenture and to examine the same to determine substantial compliance as to form with the requirements of the Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of the Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(B) [RESERVED].

(C) *Transfers and Exchanges of Physical Notes.*

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); and (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal

amount of the Physical Note (or portion thereof) to be so exchanged; *provided, however*, that, to effect any such transfer or exchange, such Holder must surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar.

(ii) Upon the satisfaction of the requirements of the Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the “old Physical Note” for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to **Section 2.14**;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**;

(3) in the case of a transfer:

(a) [RESERVED]

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Transfers of Notes Subject to Redemption, Repurchase or Conversion.* Notwithstanding anything to the contrary in the Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 5.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the Redemption Price when due.

Section 2.11. Exchange and Cancellation of Notes to Be Converted or Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption.* If only a portion of a Physical Note of a Holder is to be converted pursuant to Article 6 or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion or repurchase, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted or repurchased, as applicable, which Physical Note will be converted or repurchased, as applicable, pursuant to the terms of the Indenture; *provided, however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.17**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.*

(i) *Physical Notes.* If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted pursuant to Article 6 or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.17** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.14**; and (2) in the case of a partial conversion or repurchase, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) [RESERVED].

Section 2.12. Replacement Notes.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and upon receipt of a Company Order the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss, claim, cost or liability that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.12** will be an additional obligation of the Company and will be entitled to all of the benefits of the Indenture equally and ratably with all other Notes issued under the Indenture.

Section 2.13. Registered Holders.

Only the Holder of a Note will have rights under the Indenture as the owner of such Note.

Section 2.14. Cancellation.

Without limiting the generality of **Section 4.06**, the Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. Upon written instruction from the Company, the Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. The Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.15. Notes Held by the Company or its Affiliates.

Without limiting the generality of **Sections 4.06** and **2.17**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates will be deemed not to be outstanding; *provided, however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned will be so disregarded.

Section 2.16. Temporary Notes.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and upon receipt of a Company Order the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under the Indenture as definitive Notes.

Section 2.17. Outstanding Notes.

(A) *Generally.* The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.14**; (ii) paid in full (including upon conversion) in accordance with the Indenture; or (iii) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B), (C) or (D)** of this **Section 2.17**.

(B) *Replaced Notes.* If a Note is replaced pursuant to **Section 2.12**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a “*bona fide* purchaser” under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase.* If, on a Redemption Date, Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a default in the payment of any

such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Sections 5.02(D), 5.03(E) or 6.04**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in the Indenture.

(D) *Notes to Be Converted.* At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.04**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.04**.

(E) *Cessation of Accrual of Interest.* Except as provided in **Sections 5.02(D), 5.03(E) or 6.04**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.17**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.18. Repurchases by the Company.

Without limiting the generality of **Sections 2.14** and **4.06**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders.

Section 2.19. CUSIP and ISIN Numbers.

The Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided, however*, that (i) the Trustee is not liable for CUSIP numbers printed on any Security, notice or elsewhere (ii) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (iii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee of any change in the CUSIP or ISIN number(s) identifying any Notes.

Section 2.20. Trustee Not Responsible for Securities Laws.

Notwithstanding anything herein to the contrary, neither the Trustee nor the Registrar shall be responsible for ascertaining whether any transfer complies with the registration provisions of or exemptions from the Securities Act, applicable state securities laws or other applicable laws.

Article 3. COMMON STOCK

Section 3.01. Issuance of Common Stock.

(A) *Issuance of Common Stock.* On each issuance date on **Exhibit G** attached hereto (each such issuance date, a “**Share Issuance Date**” and together, the “**Share Issuance Dates**”) and in the amount detailed on **Exhibit G**, without any action on the part of the Holder or the Trustee, the Company shall issue to the Holder the number of full shares of Common Stock to which he, she or it is entitled, registered in such name or names as may be directed by him, her or it and issue to the Holder a certificate or book-entry position for such shares. No additional

consideration shall be paid by the Holder in order to receive his, her or its Common Stock on each Share Issuance Date. If there is more than one Holder on the Share Issuance Date, the amount detailed on **Exhibit G** will be issued to the Holders of the Notes in a *pro rata* manner among all such Holders based on the percentage of then outstanding principal amount of the Notes held by each such Holder.

(B) *Date of Issuance.* Each person in whose name any such certificate or book-entry position for shares of Common Stock is issued shall for all purposes be deemed to have become the holder of record of such shares of Common Stock on each Share Issuance Date, irrespective of the date of delivery of such certificate or entry of such book-entry position.

(C) *Delay of Issuance when Share Issuance Date is Not a Trading Day.* If a Share Issuance Date is not a Trading Day, then, notwithstanding anything to the contrary in this Indenture, such issuance shall be made on the immediately following Trading Day and no liquidated damages shall accrue on such amount as a result of the related delay.

(D) *Certain Company Events.* Upon (i) a stock split, reverse stock split, stock dividend, exchange of shares, reclassification or recapitalization occurring on or after the date hereof and on each subsequent occurrence, (ii) a reorganization, liquidation, dissolution, winding up, combination, or merger of the Company occurring on or after the date hereof and on each subsequent occurrence, (iii) the declaration or making of any dividend or other distribution of the Company's assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property, options, evidence of indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) or (iv) other event in which the Common Stock is converted into other securities, rights or property (each of (i) through (iv), "**Certain Company Events**"), the Holder shall receive (x) the same per share consideration that the holders of Common Stock received or will receive in connection with such Certain Company Events for the number of shares the Holder is entitled to pursuant to **Section 3.01(A)** above and (y) the same kind and amount of consideration for all other events that the holders of Common Stock received or will receive in connection with such Certain Company Events (including for the avoidance of doubt, for such shares the Holder is entitled to but has not yet received). If an event or circumstance would render the Holder unable to receive the shares of Common Stock it is entitled to receive on each Share Issuance Date, the Company shall, if permitted under applicable law, issue, without any action on the part of the Holder, the number of shares the Holder is entitled pursuant to **Section 3.01(A)** above before giving effect to such event or circumstance. Notwithstanding anything to the contrary herein, this **Section 3.01(D)** shall apply to all unissued shares of Common Stock detailed on **Exhibit G**.

(E) *Buy-In and Liquidated Damages.* If the Company shall fail for any reason or for no reason to issue shares of Common Stock to the Holder on the applicable Share Issuance Date (such shares to which the Holder is entitled being referred to as the "**Undelivered Shares**") in breach of this Indenture, then, in addition to all other remedies available to the Holder, if at or prior to the applicable Share Issuance Date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Undelivered Shares which the Holder anticipated receiving upon pursuant to this **Section 3.01** (a "**Buy-In**"), then the Company shall, within five (5) Trading Days after the Holder's request, (i) pay in cash to the Holder the amount, if any, by which (A) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (B) the amount obtained by multiplying (1) the number of Undelivered Shares that the Company was required to deliver to the Holder, by (2) the price at which the sell order giving rise to such purchase obligation was executed (including brokerage commissions, if any), and (ii) at the option of the

Holder, either (x) pay to the Holder an amount in cash equal to the number of Undelivered Shares multiplied by the Daily VWAP of such shares on the applicable Share Issuance Date or (y) deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its issuance and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to a number of shares deliverable pursuant to Section 3.01(A), with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (i) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, written evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock as required pursuant to the terms hereof. In addition to the foregoing, if the Company fails for any reason or for no reason to issue Common Stock to the Holder on the applicable Share Issuance Date in breach of this Indenture, the Company shall pay the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Undelivered Shares (based on the Daily VWAP of such shares on the applicable Share Issuance Date), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after the applicable Share Issuance Date until such cash amount is paid, and the Undelivered Shares are issued, to the Holder.

(F) *Stock Shortfall*. On each Share Issuance Date detailed on **Exhibit G** attached hereto (each such Share Issuance Date, a "**Stock Shortfall Payment Date**"), in addition to the obligations contained herein, the Company shall pay in cash to the Holder an amount equal to (i) (x) one dollar and thirty five cents (\$1.35) minus (y) the average of the Daily VWAPs during the period commencing on the day of and inclusive of the immediately preceding Stock Shortfall Payment Date (or, if none, the Issue Date) and ending on and inclusive of the day before such Stock Shortfall Payment date (each such period, a "**Stock Shortfall Period**") multiplied by (ii) the number of shares of Common Stock required to be issued pursuant to **Section 3.01(A)** hereof on such Stock Shortfall Payment Date (without regard to any limitations on such issuance under this Indenture or the Notes); provided, that if the resulting amount shall be negative, no payment pursuant to this **Section 3.01(F)** shall be made on such Stock Shortfall Payment Date for such Stock Shortfall Period; provided, further, that at such time that the Common Stock ceases to be listed on any U.S. national securities exchange, clause (y) above shall be deemed to be equal to zero (0) and all payments to be made pursuant to this **Section 3.01(F)** across all remaining Stock Shortfall Payment Dates, including all accrued and unpaid interest (pursuant to the following sentence), shall immediately become due and payable without any further action or notice by any Person (such date, the "**Accelerated Stock Shortfall Payment Date**"). Notwithstanding the foregoing, during such time that the Common Stock continues to be listed on any U.S. national securities exchange, if a Market Disruption Event that is not waived by the Holder occurs on each Trading Day in a Stock Shortfall Period, clause (y) of the foregoing sentence shall be deemed to be equal to zero (0) for such Stock Shortfall Period. In addition to the foregoing, if the Company fails for any reason or for no reason to make a payment pursuant to this **Section 3.01(G)** by the applicable Stock Shortfall Payment Date or Accelerated Stock Shortfall Payment Date, as the case may be, (such amount, the "**Undelivered Stock Shortfall Payment**"), the Company shall pay the Holder, in cash, as interest and not as a penalty, for each \$1,000 of Undelivered Stock Shortfall Payment, \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such interest begins to accrue) for each Trading Day after the applicable Stock Shortfall Payment Date or Accelerated Stock Shortfall Payment Date, as the case may be, until such Undelivered Stock Shortfall Payment is paid.

(G) *Make-Whole*. Notwithstanding anything to the contrary in the Indenture or the Notes, upon any redemption, repurchase, retirement or conversion of the Notes in connection with a Fundamental Change, Event of Default, Forced Conversion, Mandatory Redemption, conversion of the Notes at the Holder's option into Conversion Consideration or similar event, the Company shall, on a contemporaneous basis, (x) issue to the Holder, without any action on the part of the Holder, 100% of the remaining number of shares the Holder would otherwise have been entitled to receive pursuant to **Section 3.01(A)**, through to and including the Maturity Date (provided, that, in the event such redemption, repurchase, retirement or conversion or similar event involves fewer than all of the then-outstanding Notes, such issuance will be made on a pro rata basis with the corresponding amount of Notes that are redeemed, repurchased, retired, converted or otherwise extinguished under this **Section 3.01(G)**), and (y) make any payment that would have otherwise been required to be made pursuant to **Section 3.01(F)** relating to such shares issued pursuant to subsection (x) as if the date of such redemption, repurchase, retirement or conversion, were a Stock Shortfall Payment Date and the period commencing on the day of and inclusive of the immediately preceding Stock Shortfall Payment Date (or, if none, the Issue Date) and ending on and inclusive of such date were the relevant Stock Shortfall Period (the "**Make-Whole Payment**").

(H) Notwithstanding anything to the contrary set forth herein, the Trustee shall have no obligations with respect to the Common Stock or the duties of the Company set forth herein with respect to the Common Stock, including the Company's issuance of Common Stock or any other cash payments or other consideration due to Holders in respect of the Common Stock. In the absence of actual notice to the contrary, the Trustee shall be able to conclusively and without liability presume that such Common Stock has been delivered and such payments have been made.

Article 4. COVENANTS

Section 4.01. Payment on Notes.

(A) *Generally*. The Company will pay or cause to be paid all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in the Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose.

Section 4.02. Exchange Act Reports.

(A) *Generally*. The Company will send to the Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided, however*, that the Company need not send to the Trustee any material for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC. Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee at the time such report is so filed via the

EDGAR system (or such successor). Upon the written request of any Holder, the Company will provide to such Holder a copy of any report that the Company has sent the Trustee pursuant to this **Section 4.02(A)**, other than a report that is deemed to be sent to the Trustee pursuant to the preceding sentence. The Company will also comply with its other obligations under Section 314(a)(1) of the Trust Indenture Act.

(B) *Trustee's Disclaimer.* The Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). Delivery of reports, information and documents to the Trustee under this Section 3.02 are for information purposes only and the sending or filing of reports pursuant to **Section 4.02(A)** will not be deemed to constitute actual or constructive notice to or knowledge of the Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under the Indenture. The Trustee will have no duty to review or analyze any such reports delivered to it.

Section 4.03. Default Certificate.

Within one hundred twenty (120) days after December 31, 2023 and each fiscal year of the Company ending thereafter until the full repayment of the Notes, the Company will deliver an Officer's Certificate to the Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company and its Subsidiaries during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action the Company is taking or proposes to take with respect thereto).

Section 4.04. Stay, Extension and Usury Laws.

To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of the Notes or the Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee or the Holders by the Notes or the Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.05. Corporate Existence.

Subject to **Article 7**, the Company will cause to preserve and keep in full force and effect:

(A) its corporate existence and the corporate existence of its Subsidiaries in accordance with the organizational documents of the Company or its Subsidiaries, as applicable; and

(B) the material rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, however, that the Company need not preserve or keep in full force and effect the corporate existence of any of its Subsidiaries (other than ProductionCo while the Pledged Collateral remains subject to the Liens created by the Pledge Agreement) or any such license or franchise if the Company determines in good faith that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole; or

(y) the loss thereof is not, individually or in the aggregate, reasonably expected to be materially adverse to the Holders.

Section 4.06. Restriction on Acquisition of Notes by the Company and its Affiliates.

The Company will promptly deliver to the Trustee for cancellation all Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired.

Section 4.07. Ranking.

All payments due under the Notes shall rank (i) pari passu with all other Notes and the Secured Notes, (ii) effectively senior to all unsecured Indebtedness of the Company to the extent of the value of the Collateral securing the Notes for so long as the Collateral so secures the Notes in accordance with the terms hereof and (iii) senior to any Subordinated Indebtedness.

On and following the date that the Secured Notes are no longer outstanding, (x) the Notes shall rank senior to any Subordinated Indebtedness and (y) with respect to any assets held in an account with a Blocked DACA, the Notes shall rank senior to all other Indebtedness with respect to such account.

Section 4.08. [Reserved].

Section 4.09. Liens.

The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any accounts with a Deposit Account Control Agreement in effect.

Section 4.10. [Reserved].

Section 4.11. [Reserved].

Section 4.12. [Reserved].

Section 4.13. Taxes.

The Company and its Subsidiaries shall pay when due all material taxes, fees or other similar governmental charges (together with any related interest or penalties) now or hereafter imposed or assessed against the Company and its Subsidiaries or their respective assets or upon their ownership, possession, use, operation or disposition thereof or upon their rents, receipts or earnings arising therefrom. The Company and its Subsidiaries shall file on or before the due date therefor all material personal property tax returns. Notwithstanding the foregoing, the Company and its Subsidiaries may contest, in good faith and by appropriate proceedings, taxes, fees or other similar governmental charges for which they maintain adequate reserves therefor in accordance with GAAP.

Section 4.14. Minimum Cash Balance

The Company shall have at all times liquidity calculated as unrestricted, unencumbered Cash or Cash Equivalents of the Company and its Subsidiaries, excluding the Driftwood Companies, as taken as a whole, in one or more deposit, securities or money market or similar

accounts located in the United States (“**Liquidity**”) in an aggregate minimum amount equal to fifty million dollars (\$50,000,000).

Section 4.15. Change in Nature of Business.

The Company shall not, and the Company shall cause each of its Subsidiaries to not, engage in any material line of business substantially different from those lines of business conducted by or publicly contemplated to be conducted by the Company and each of its Subsidiaries on the Issue Date, and such activities related, ancillary or incidental thereto. For the avoidance of doubt, for the purposes of this **Section 4.15**, the line of business conducted by and publicly contemplated to be conducted by (x) the Driftwood Companies and their Subsidiaries is the Driftwood Project and (y) ProductionCo and the Subsidiaries of ProductionCo is the ProductionCo Operations.

Section 4.16. Maintenance of Intellectual Property.

The Company will take all action, and the Company shall cause each of its Subsidiaries to take, all actions necessary or advisable to maintain and preserve all of the registered or applied for Intellectual Property owned by the Company or such Subsidiary that are necessary or material (as determined by the Company in good faith) to the conduct of its business, taken as a whole, in full force and effect.

Section 4.17. Maintenance of Insurance.

The Company shall maintain, and the Company shall cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations (including, without limitation, comprehensive general liability, hazard, rent and business interruption insurance) with respect to its properties (including all real properties leased or owned by it) and business, in such amounts and covering such risks as is required by any governmental authority having jurisdiction with respect thereto or as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated.

Section 4.18. Transactions with Affiliates.

Except for Permitted Restricted Payments, Permitted Investments and transactions between or among the Company, its Wholly Owned Subsidiaries and the Driftwood Companies, neither the Company, nor any of its Subsidiaries, shall enter into, renew, extend or be a party to, any transaction or series of related transactions (including, without limitation, the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any Affiliate, except (i) transactions for fair consideration and on terms not materially less favorable, taken as a whole, to it than would be obtainable in a comparable arm’s length transaction with a Person that is not an Affiliate thereof and (ii) compensation, including incentive compensation plans approved by such Person’s Board of Directors (or equivalent governing body).

Section 4.19. Restricted Issuances.

The Company shall not, and shall cause its Subsidiaries not to, directly or indirectly, without the prior written consent of the Required Holders, (i) issue any Notes (other than as contemplated by the Securities Purchase Agreement and the Notes) or (ii) issue any other securities or incur any Indebtedness, in either case, that would cause a Default under the Notes or the Indenture or that by its terms would prohibit or restrict the performance of any of the Company’s or its Subsidiaries’ obligations under the Notes or the Indenture, including without limitation, the payment of interest and principal thereon.

Section 4.20. [Reserved].

Section 4.21. [Reserved].

Section 4.22. Further Instruments and Acts.

At the Trustee's request, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to more effectively carry out the purposes of the Indenture.

Section 4.23. Maintenance of Properties, Etc.

The Company shall maintain and preserve, and the Company shall cause each of its Subsidiaries to maintain and preserve, all of its properties which are necessary or useful (as determined by the Company in good faith) to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and comply at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except, in each case, as could reasonably be expected to cause a Material Adverse Effect. The Company shall cause all material assets used in the exploration, drilling and extraction of natural gas and related and resulting products by the Company or any of its Subsidiaries or Affiliates to be held by ProductionCo or one or more of its Wholly Owned Subsidiaries and shall make no Investment in any material assets used in the exploration, drilling and extraction of natural gas and related and resulting products other than through ProductionCo or one or more of its Wholly Owned Subsidiaries.

Section 4.24. Share Reserve.

So long as any Notes remain outstanding, the Company shall at all times have no less than a number of shares of authorized but unissued Common Stock reserved for any issuance of shares of Common Stock hereunder (as applicable) equal to 58,784,899 shares of Common Stock, less a number of shares corresponding to the number of Common Shares previously issued or delivered in connection with any conversion of Notes or any redemption, repurchase or retirement of Notes (collectively, the "**Required Reserve Amount**"); provided that at no time shall the number of shares of Common Stock reserved pursuant to this **Section 4.24** be reduced other than in connection with any stock combination, reverse stock split or other similar transaction or proportionally in connection with any issuance of Common Stock under the Notes or any such redemption, repurchase or retirement of Notes. If at any time the number of shares of Common Stock authorized and reserved for issuance is not sufficient to meet the Required Reserve Amount, the Company will promptly take all corporate action necessary to authorize and reserve a sufficient number of shares, including, without limitation, calling a special meeting of stockholders to authorize additional shares to meet the Company's obligations pursuant to the Transaction Documents, in the case of an insufficient number of authorized shares, obtain stockholder approval (if required) of an increase in such authorized number of shares, and voting the management shares of the Company in favor of an increase in the authorized shares of the Company to ensure that the number of authorized shares is sufficient to meet the Required Reserve Amount. For the avoidance of doubt, the Required Reserve Amount cannot be used by the Company to satisfy any equivalent obligations under the Secured Notes Indenture.

Section 4.25. [Reserved].

Article 5. REPURCHASE AND REDEMPTION

Section 5.01. No Sinking Fund.

No sinking fund is required to be provided for the Notes.

Section 5.02. Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.* Subject to the other terms of this **Section 5.02**, if a Fundamental Change occurs, then each Holder will have the right (the “**Fundamental Change Repurchase Right**”) to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances.* If (i) the principal amount of the Notes has been accelerated pursuant to **Section 7.02** and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including a rescission as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 5.02(D)**, on such Fundamental Change Repurchase Date) or (ii) the Company delivers a Company Conversion Notice to the Holders pursuant to Section 6.01(A), then (i) the Company may not repurchase any Notes pursuant to this **Section 5.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof.

(C) *Fundamental Change Repurchase Date.* The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company’s choosing that is no more than thirty-five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 5.02(E)**.

(D) *Fundamental Change Repurchase Price.* The Fundamental Change Repurchase Price for any Note (or any portion of such Note) to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the Fundamental Change Base Repurchase Price for such Fundamental Change plus any accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided, however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company’s election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date). For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice.* On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, in writing, with a copy to the Trustee, the Paying Agent and the Conversion Agent a notice of such Fundamental Change (a “**Fundamental Change Notice**”), which notice shall state the Fundamental Change Repurchase Date and Fundamental Change Base Repurchase Price of such Fundamental Change. Upon written request by the Company in an Officer’s Certificate delivered to the Trustee at least five (5) Business Days prior to the requested date of delivery (or such shorter time as shall be satisfactory to the Trustee), the Trustee shall send the Fundamental Change Notice to the Holders on behalf of the Company. The failure to deliver a Fundamental Change Notice will not limit the Fundamental Change Repurchase right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right.*

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased.* To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer.

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note.

(iii) *Withdrawal of Fundamental Change Repurchase Notice.* A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the third Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination.

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof.

(G) *Payment of the Fundamental Change Repurchase Price.* Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time prescribed by **Section 4.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date such Note is delivered to the Paying Agent. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 5.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered pursuant to the first sentence of this **Section 5.02(G)**.

(H) *Compliance with Applicable Securities Laws.* To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in the Indenture. To the extent the provisions of any securities laws or regulations conflict with the provisions in this Section 4.02(H) or any other provision of this Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.02(H).

(I) *Repurchase in Part.* Subject to the terms of this **Section 5.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 5.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 5.03. Right of the Holders to Redeem the Notes.

(A) *No Right to Redeem Before October 1, 2024.* Unless in connection with a Fundamental Change pursuant to **Section 5.02** or an Event of Default pursuant to **Section 8.01**, the Holders may not redeem the Notes at their option at any time before October 1, 2024.

(B) *Mandatory Redemption.*

(i) *Mandatory Right to Redeem the Notes on or after October 1, 2024.* Unless a Forced Conversion has occurred, subject to the terms of this **Section 5.03**, on or after October 1, 2024, and solely if the Liquidity Threshold is not met on or after September 10, 2024 (at which time a Holder may provide written notice to the Trustee and the Company that it is exercising its right to redeem such Holder's Notes or a portion of such Holder's Note), each Holder may redeem such Holder's Notes or a portion of such Holder's Notes up to the entire principal amount of such Note outstanding on such date,

in an Authorized Denomination of such Note for a cash purchase price equal to the Redemption Price.

(C) *Redemption Prohibited in Certain Circumstances.*

If (i) the principal amount of the Notes has been accelerated pursuant to **Section 8.02** and such acceleration has not been rescinded on or before a Redemption Date (including a rescission as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso in **Section 5.03(E)**, on such Redemption Date), or (ii) a Fundamental Change has occurred and the Holder has delivered a Fundamental Change Repurchase Notice that has not been withdrawn pursuant to **Section 5.02(F)(iii)**, or (iii) a Forced Conversion has occurred, then (a) the Holders may not call for Redemption or otherwise redeem any Notes pursuant to **Section 5.03(B)(i)**; and (b) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof.

(D) *Redemption Date.* In the event of a Mandatory Redemption, a Holder choosing to exercise its right to redemption pursuant to **Section 5.03(B)(i)** shall provide written notice to the Trustee and the Company at least fifteen (15) Business Days prior to the Redemption Date that it is exercising its right to redeem such Holder's Notes or a portion of such Holder's Note on the date set forth in such notice.

(E) *Redemption Price.* The Redemption Price for any Note called for a Mandatory Redemption is an amount in cash equal to the principal amount of such Note being redeemed, plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Mandatory Redemption; provided, however, that the Holder of such Note at the Close of Business on the Regular Record Date immediately prior to the Redemption Date will be entitled, notwithstanding such Mandatory Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date.

(F) *Mandatory Redemption Notices.*

(i) *Mandatory Redemption Notice.* To call a Holder's Note for Redemption pursuant to **Section 5.03(B)(i)**, a Holder must send to the Company, the Trustee and the Paying Agent a written notice of such Redemption in accordance with **Section 5.03(D)** (a "**Redemption Notice**").

Such Redemption Notice must state:

- (1) that the Holder has called the Holder's Notes for Redemption;
the principal amount to be redeemed (or such lesser amount as the Holders may accept for redemption);
- (2) the Redemption Date for such Redemption;

the Redemption Price for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date,

the amount, manner and timing of the interest payment payable pursuant to the proviso to Section 5.03(E)); and

(3) the CUSIP and ISIN numbers, if any, of the Notes.

(G) *Payment of the Redemption Price.* Without limiting the Company's obligation to deposit the Redemption Price, by the time proscribed by **Section 4.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date, subject to **Section 5.03(B)**. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 5.03(E)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

Article 6. CONVERSION

Section 6.01. Right of Company to Convert the Notes.

(A) *Generally.* If the Forced Conversion Trigger occurs, then, within one (1) Business Day after the date of the Forced Conversion Trigger, the Company shall provide written notice substantially in the form attached hereto as Exhibit E (a "**Company Conversion Notice**") to the Holders (with a copy to the Trustee and Conversion Agent) that the Forced Conversion Trigger has occurred and the Company shall convert all of the principal amount of each Holder's Note into Conversion Consideration (a "**Forced Conversion**"), and the Company shall certify in writing to the Holders on the date that such Company Conversion Notice is delivered that the Equity Conditions are satisfied as of the date of such Company Conversion Notice. Within one (1) Business Day after the date of the Company Conversion Notice, each Holder will notify the Company in writing if a Forced Conversion would cause such Holder or such Holder's other Attribution Parties to be deemed to beneficially own, in the aggregate, more than the Maximum Percentage.

(B) *Effect of Forced Conversion.* A Forced Conversion will have the same effect as a conversion of the applicable outstanding principal amount of a Note effected at a Holder's election pursuant to **Section 6.02** and shall occur on the second (2nd) Business Day after the date of the Company Conversion Notice (for the avoidance of doubt, without the need for the Holder to deliver a Holder Conversion Notice) (such date, the "**Forced Conversion Date**").

Section 6.02. Right of Holders to Convert the Notes

(A) *Generally.* Subject to the provisions of this **Article 6**, a Holder may, at its option, convert its Note into Conversion Consideration, in whole or in part, by completing, manually signing and delivering to the Conversion Agent the conversion notice in substantially the form attached hereto as **Exhibit F** (the "**Holder Conversion Notice**"), provided that, if a Holder converts the Holder's Note in part, such conversion may only be made in an Authorized Denomination. Provisions of this **Article 6** will equally apply to conversions of any permitted portion of the Notes.

(B) *When the Holders May Convert the Notes.*

(i) A Holder may convert its Note at any time until the Close of Business on the second (2nd) Trading Day immediately before the Maturity Date.

(ii) *Effect of Redemption or Repurchase Upon a Fundamental Change.* Notwithstanding anything to the contrary in this Article 6, if a Note (or any portion of a Note) is to be repurchased upon a Redemption or a Repurchase Upon Fundamental Change, then in no event may such Note (or such portion) be converted after the Close

of Business on the Trading Day immediately before the related Redemption Date or Fundamental Change Repurchase Date, as applicable; *provided*, that the limitations contained in this Section 6.02(B)(ii) shall no longer apply if the Redemption Price or Fundamental Change Repurchase Price is not delivered on the Fundamental Change Repurchase Date or Redemption Date, as applicable.

Section 6.03. Conversion Procedures.

(A) *Generally*.

(i) [RESERVED]

(ii) *Physical Notes*. To convert all or a portion of a Physical Note, the Holder of such Note shall (x) deliver a Holder Conversion Notice to the Conversion Agent and (y) deliver such Holder's Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); and furnish any endorsements and transfer documents that the Company or the Conversion Agent may require.

(B) *Effect of Converting a Note*. At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 6.04**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in and subject to **Section 6.04**.

(C) *Holder of Record of Conversion Shares*. The person in whose name any shares of Common Stock is issuable upon conversion of a Note will be deemed to become the holder of record of such shares as of the Close of Business on the Conversion Date for such conversion, conferring, as of such time, upon such person, without limitation, all voting and other rights appurtenant to such shares.

(D) *Taxes and Duties*. If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any shares of Common Stock upon such conversion.

(E) *Conversion Agent to Notify Company of Conversions*. Upon receipt of a Holder Conversion Notice, the Conversion Agent will promptly notify the Company and the Trustee of such occurrence.

Section 6.04. Settlement upon Conversion.

(A) *Generally*. The consideration (the "**Conversion Consideration**") due in respect of each \$1,000 principal amount of a Note to be converted will consist of the following:

(i) Subject to **Section 6.04(B)**, a number of shares of Common Stock equal to the Conversion Rate in effect on the Conversion Date for such conversion; and

(ii) cash in an amount equal to the aggregate accrued and unpaid interest on the applicable Note to, but excluding, the Conversion Date for such conversion; *provided, however* if the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to

receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date). For the avoidance of doubt, (x) as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date and (y) if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 6.04**.

(B) *Fractional Shares*. If the number of shares of Common Stock to be delivered in connection with the conversion of a Note is not a whole number, then such number will be rounded up to the nearest whole number.

(C) *Delivery of the Conversion Consideration*. The Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of a Note to the Holder thereof on or before the second (2nd) Business Day (or, if earlier, the standard settlement period for the primary Eligible Exchange on which the Common Stock is traded) immediately after the Conversion Date for such conversion (the "**Conversion Settlement Date**"). If any Holder has not complied with its obligations under Section 6.03(A)(ii) on the applicable Conversion Date with respect to any of its Notes, such Holder shall not receive any Conversion Consideration with respect to such Notes on the applicable Conversion Date, such Notes shall be deemed to cease to be outstanding on such Conversion Date (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Notes as of the Close of Business on such Conversion Date) and after such Conversion Date the only rights hereunder or under any of the other Transaction Documents that such Holder shall have with respect to such Notes is the right to receive the Conversion Consideration at such time as such Holder has complied with the requirements set forth in Section 6.03(A)(ii) with respect to such Notes.

(D) *Conversion Settlement Defaults*. If (x) the Company fails to deliver, by the related Conversion Settlement Date any shares of Common Stock (the "**Defaulted Shares**") forming part of the Conversion Consideration, and (y) the Holder (whether directly or indirectly, including by any broker acting on the Holder's behalf or acting with respect to such Defaulted Shares) purchases any shares of Common Stock (whether in the open market or otherwise) to cover any such Defaulted Shares (whether to satisfy any settlement obligations with respect thereto of the Holder or otherwise), then, without limiting the Holder's right to pursue any other remedy available to it (whether hereunder, under applicable law or otherwise), the Holder will have the right, exercisable by notice to the Company, to cause the Company to either:

- (i) pay, on or before the second (2nd) Business Day after the date such notice is delivered, cash to the Holder in an amount equal to the aggregate purchase price (including any brokerage commissions and other out-of-pocket costs) incurred to purchase such shares (such aggregate purchase price, the "**Covering Price**"); or
- (ii) promptly deliver, to the Holder, such Defaulted Shares in accordance with the Note, together with cash in an amount equal to the excess, if any, of the Covering Price over the product of (x) the number of such Defaulted Shares; and (y) the Daily VWAP per share of Common Stock on the Conversion Date relating to such conversion.

To exercise such right, the Holder must deliver notice of such exercise to the Company and the Trustee, specifying whether the Holder has elected **clause (i)** or **(ii)** above to apply. If the Holder has elected **clause (i)** to apply, then the Company's obligation to deliver the Defaulted Shares in accordance with the applicable Note will be deemed to have been satisfied and discharged to the extent the Company has paid the Covering Price in accordance with **clause (i)**.

Section 6.05. Status of Common Stock Issued upon Conversion.

(A) [RESERVED].

(B) *Status of Conversion Shares; Listing.* Each Conversion Share delivered upon conversion of a Note will be a newly issued or treasury share and will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any Lien or adverse claim (except to the extent of any Lien or adverse claim created by the action or inaction of the Holder or the Person to whom such Conversion Share will be delivered). If the Common Stock is then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Conversion Share issued upon conversion of a Note, when delivered upon such conversion, to be admitted for listing on such exchange or quotation on such system.

(C) Any Conversion Shares issued upon conversion of a Note will be issued in the form of book-entries at the facilities of DTC, identified therein by an "unrestricted" CUSIP number.

Section 6.06. Adjustments to the Conversion Rate.

(A) *Events Requiring an Adjustment to the Conversion Rate.* The Conversion Rate will be adjusted from time to time as follows:

(i) *Stock Dividends, Splits and Combinations.* If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Common Stock Change Event, as to which **Section 6.08** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such stock split or stock combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of shares of Common Stock outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and

OS_I = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

For the avoidance of doubt, any adjustment to the Conversion Rate pursuant to this **Section 6.06(A)(i)** will become effective as of the time set forth in CR_I above. If any dividend, distribution, stock split or stock combination of the type described in this **Section 6.06(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(ii) *Rights, Options and Warrants.* If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a stockholder rights plan, as to which **Sections 6.06(A)(iii)(1)** and **6.06(E)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_I = CR_0 \square \frac{OS+X}{OS+Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_I = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

For the avoidance of doubt, any adjustment to the Conversion Rate pursuant to this **Section 6.06(A)(ii)** will become effective as of the time set forth in CR_I above. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being

exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. If such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the Ex-Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this **Section 6.06(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors in good faith.

(iii) *Spin-Offs and Other Distributed Property.*

(1) *Distributions Other than Spin-Offs.* If the Company distributes shares of its Equity Interests, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Equity Interests of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

- (a) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required pursuant to **Section 6.06(A)(i)** or **6.06(A)(ii)**;
- (b) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required pursuant to **Section 6.06(A)(iv)**;
- (c) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in **Section 6.06(E)**;
- (d) Spin-Offs for which an adjustment to the Conversion Rate is required pursuant to **Section 6.06(A)(iii)(2)**; and
- (e) a distribution solely pursuant to a Common Stock Change Event, as to which **Section 6.08** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \left[\frac{SP}{SP - FMV} \right]$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Board of Directors in good faith), as of such Ex-Dividend Date, of the shares of Equity Interests, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, however, that if FMV is equal to or greater than SP , then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Equity Interests, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date. Any adjustments of the Conversion Date pursuant to this **Section 6.06(A)(iii)(1)** will become effective as of the time set forth in CR_1 , above.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Equity Interests of any class or series, or similar equity interests, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock (other than solely pursuant to a Common Stock Change Event, as to which **Section 6.08** will apply) and such Equity Interests or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such Spin-Off;

CR_t = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Equity Interests or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the “**Spin-Off Valuation Period**”) beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Stock in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Equity Interests or equity interests); and (y) the number of shares or units of such Equity Interests or equity interests distributed per share of Common Stock in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per share of Common Stock for each Trading Day in the Spin-Off Valuation Period.

The adjustment to the Conversion Rate pursuant to this **Section 6.06(A)(iii)(2)**, will be calculated as of the Close of Business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If a Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary in the Indenture or any Note, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Spin-Off Valuation Period.

To the extent any dividend or distribution of the type set forth in this **Section 6.06(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Rate will be increased based on the following formula:

$$CR_t = CR_b \left[\frac{SP}{SP - D} \right]$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_t = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, however, that if D is equal to or greater than SP , then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time by the Board of Directors in good faith) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Last Reported Sale Price per share of Common Stock on the Trading Day immediately after the last date (the “**Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \left[\frac{AC + (SP_0 OS_0)}{SP_1 OS_1} \right]$$

where:

CR_0 = the Conversion Rate in effect immediately before the time (the “**Expiration Time**”) such tender or exchange offer expires;

CR_1 = the Conversion Rate in effect immediately after the Expiration Time;

AC = the aggregate value (determined as of the Expiration Time by the Board of Directors in good faith) of all cash and other consideration paid for shares of Common Stock purchased or exchanged in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately before the Expiration Time (including all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Day period (the “**Tender/Exchange**”

Offer Valuation Period”) beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, however, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 6.06(A)(v)**, except to the extent provided in the immediately following paragraph. The adjustment to the Conversion Rate pursuant to this **Section 6.06(A)(v)**, will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in the Indenture or the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) *No Adjustments in Certain Cases.*

(i) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 6.06(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 6.06(A)** (other than a stock split or combination of the type set forth in **Section 6.06(A)(i)**) or a tender or exchange offer of the type set forth in **Section 6.06(A)(v)** if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder’s Notes and as if such Holder held a number of shares of Common Stock equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events.* The Company will not be required to adjust the Conversion Rate except as provided in Section 6.06, Section 6.07 and Section 6.09. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

- (1) except as otherwise provided in **Section 6.06**, the sale of shares of Common Stock, including for a purchase price that is less than the market price per share of Common Stock or less than the Conversion Price;
- (2) the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company’s securities and the investment of additional optional amounts in shares of Common Stock under any such plan;
- (3) the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee,

director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(4) the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, convertible or exchangeable security of the Company outstanding as of the Issue Date or except as otherwise set forth in Section 6.06 after the Issue Date;

(5) repurchases of Common Stock, including structured or derivative transactions, that are not pursuant to a tender offer as contemplated by **Section 6.06(A)(v)**;

(6) solely a change in the par value of the Common Stock; or

(7) accrued and unpaid interest on the Notes.

(C) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in the Indenture or the Notes, if:

(i) a Note is to be converted;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to Section 6.06(A) has occurred on or before the Conversion Date for such conversion, but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date;

(iii) the Conversion Consideration due upon such conversion includes any whole shares of Common Stock; and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date. In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(D) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event*. Notwithstanding anything to the contrary in the Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 6.06(A)**;

(ii) a Note is to be converted;

(iii) the Conversion Date for such conversion occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such conversion includes any whole shares of Common Stock based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 6.03(C)**), then (x) such Conversion Rate adjustment will not be given effect for such conversion; (y) the shares of Common Stock issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution; and (z) there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such shares of Common Stock had such shares been entitled to participate in such dividend or distribution.

(E) *Stockholder Rights Plans.* If any shares of Common Stock are to be issued upon conversion of any Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under the Indenture upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 6.06(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(F) *Limitation on Effecting Transactions Resulting in Certain Adjustments.* The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to Section 6.06(A) to an amount that would result in the Conversion Price per share of Common Stock being less than the par value per share of Common Stock.

(G) *Equitable Adjustments to Prices.* Whenever any provision of the Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days the Company will make proportionate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 6.06(A)(i)** that becomes effective, or any event requiring such an adjustment to the Conversion Rate where the Ex-Dividend Date or effective date, as applicable, of such event occurs, at any time during such period.

(H) *Calculation of Number of Outstanding Shares of Common Stock.* For purposes of Section 6.06(A), the number of shares of Common Stock outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock; and (ii) exclude shares of Common Stock held in the Company's treasury (unless the Company pays any dividend or makes any distribution on shares of Common Stock held in its treasury).

(I) *Calculations.* All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a share of Common Stock (with 5/100,000ths rounded upward).

(J) *Notice of Conversion Rate Adjustments.* Upon the effectiveness of any adjustment to the Conversion Rate pursuant to Section 6.06(A), the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

(K) *Adjustment Deferral.* If an adjustment to the Conversion Rate otherwise required by this Article 6 would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this Article 6, the Company may, at its election by written notice to the Trustee, the Conversion Agent and the Holders, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of any Note; (iii) the date a Fundamental Change occurs; and (iv) February 1, 2025.

Section 6.07. Voluntary Adjustments.

(A) *Generally.* To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines in good faith that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Common Stock or rights to purchase Common Stock as a result of any dividend or distribution of shares (or rights to acquire shares) of Common Stock or any similar event and (ii) such increase is irrevocable. The Company acknowledges that any such voluntary adjustment to the Conversion Rate and any conversion of any portion of the Notes based upon any such voluntary adjustment shall not constitute material non-public information with respect to the Company.

(B) *Notice of Voluntary Increases.* If the Board of Directors determines to increase the Conversion Rate pursuant to Section 6.07(A), then, no later than the first Business Day of the period in which such increased Conversion Rate shall be in effect, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 6.08. Effect of Common Stock Change Event.

(A) If there occurs:

(i) A recapitalization, reclassification or change of the Common Stock (other than (x) changes solely resulting from a subdivision or combination of the Common Stock, (y) a change only in par value or from par value to no par value or no par value to par value and (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities);

(ii) A consolidation, merger, combination or binding or statutory share exchange involving the Company; or

(iii) A sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person,

and, in each case, as a result of such occurrence, the Common Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities or other property (including cash or any combination of the foregoing) (such an event, a “**Common Stock Change Event**,” and such other securities or other property, the “**Reference Property**,” and the amount and kind of Reference Property that a holder of one (1) share of Common Stock would be entitled to receive on account of such Common Stock Change Event (without giving effect to any arrangement not to issue fractional shares of securities or other property), a “**Reference Property Unit**”), then, notwithstanding anything to the contrary in the Indenture or the Notes, at the effective time of such Common Stock Change Event, (x) the Conversion Consideration due upon

conversion of any Note will be determined in the same manner as if each reference to any number of shares of Common Stock in this **Article 6** (or in any related definitions) were instead a reference to the number of Reference Property Units that a Holder of one (1) share of Common Stock would be entitled to receive; (y) for purposes of **Section 6.04**, each reference to any number of shares of Common Stock in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units that a Holder of one (1) share of Common Stock would be entitled to receive; and (z) for purposes of the definition of “Fundamental Change,” the term “Common Stock” and “common equity” will be deemed to mean the common equity, if any, forming part of such Reference Property. For these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of “Daily VWAP,” substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Board of Directors (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of stockholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per share of Common Stock, by the holders of Common Stock. The Company will notify the Holders of such weighted average as soon as practicable after such determination is made.

Promptly following delivery of the written notice of a Common Stock Change Event provided pursuant to Section 6.08(B), the Company and the resulting, surviving or transferee Person (if not the Company) of such Common Stock Change Event (the “**Successor Person**”) will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 9.01(G)**, which supplemental indenture will (x) provide for subsequent conversions of the Notes in the manner set forth in this **Section 6.08**; (y) provide for subsequent adjustments to the Conversion Rate pursuant to **Section 6.06(A)** in a manner consistent with this **Section 6.08** and **Section 6.09**; and (z) contains such other provisions as the Company reasonably determines are appropriate to preserve the economic interests of the Holder and to give effect to the provisions of this **Section 6.08**. If the Reference Property includes shares of stock or other securities or assets of a Person other than the Successor Person, then such other Person will also execute such instruments or agreements and such instruments or agreements will contain such additional provisions the Company reasonably determines are appropriate to preserve the economic interests of the Holders.

(B) *Notice of Common Stock Change Events.* On or before the twentieth (20th) calendar day after the occurrence of the effective date of any Common Stock Change Event, the Company will provide written notice to the Holders, the Trustee and the Conversion Agent of such Common Stock Change Event, including a brief description of such Common Stock Change Event and a brief description of the anticipated change in the conversion right of the Notes.

Section 6.09. Restriction on Conversions.

(A) *Beneficial Ownership Limitations.* Notwithstanding anything to the contrary contained herein, the Company shall not issue shares pursuant to a Note, and no Holder shall have the right to exercise any right to convert any portion of such Holder’s Note pursuant to the

terms and conditions of the Indenture and such Holder's Note, and any such payment, conversion or issuance shall be null and void and treated as if never made, to the extent that after giving effect to such conversion or issuance of shares of Common Stock, such Holder together with the other Attribution Parties would collectively beneficially own in the aggregate in excess of 4.99% (the "**Maximum Percentage**") of the number of shares of Common Stock outstanding immediately after giving effect to such conversion or issuance of shares of Common Stock provided, that, the aggregate number of shares of Common Stock required to be issued pursuant to **Section 3.01(A)** shall be held in abeyance for the benefit of the Holder until such time or times as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such shares (and any such shares declared or made on such initial issuance or on any subsequent issuance held similarly in abeyance) to the same extent as if there had been no such limitation. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by a Holder and such Holder's Attribution Parties shall include the number of shares of Common Stock held by such Holder and such Holder's other Attribution Parties plus the number of shares of Common Stock issuable with respect to such conversion or issuance of shares of Common Stock (or applicable portion thereof) with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this **Section 6.09(A)**. For purposes of this **Section 6.09(A)**, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. The Trustee shall have no obligation to calculate the beneficial ownership of the Holder. For purposes of this Indenture and the Notes and any conversion or issuance of the Notes, in determining the number of outstanding shares of Common Stock the Company may issue pursuant to **Article 3** and **Article 6** without exceeding the Maximum Percentage, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Holder Conversion Notice from a Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall promptly notify such Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such conversion would otherwise cause such Holder's beneficial ownership, as determined pursuant to this **Section 6.09(A)**, to exceed the Maximum Percentage, such Holder must notify the Company of a reduced number of shares of Common Stock to be issued pursuant to such Holder Conversion Notice. For any reason at any time, upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm in writing or by electronic mail to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including such Holder's Note, by such Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to a Holder pursuant to such Holder's Note would result in such Holder and such Holder's other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock (as determined under Section 13(d) of the Exchange Act), the number of shares so issued by which such Holder's and such Holder's other Attribution Parties' aggregate beneficial ownership exceeds the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and shall be cancelled *ab initio*, and such Holder shall not have the power to vote or to transfer the Excess Shares. Notwithstanding the foregoing, to the extent that the Company's conversion of any

portion of a Note pursuant to a Forced Conversion would result in a Holder, together with such Holder's Attribution Parties, collectively beneficially owning Excess Shares, then such Forced Conversion shall nevertheless occur except that the Notes associated with the Excess Shares shall not be converted into shares of Common Stock (and such Holder shall not be entitled to beneficial ownership with respect to such Excess Shares) but shall instead be converted into the right to receive shares of Common Stock when, but only when, such shares can be issued without the relevant Holder and its Attribution Parties exceeding the Maximum Percentage. None of the Trustee, the Paying Agent nor the Conversion Agent shall have any duty, responsibility or liability to determine whether an issuance of shares will exceed the Maximum Percentage or whether any Holder or beneficial owner owns Excess Shares. Upon conversion, none of the Trustee, the Paying Agent nor the Conversion Agent shall have any duty, responsibility or liability for the delivery of Common Stock or to determine whether any Holder has a right to receive Common Stock. Upon delivery of a written notice to the Company, a Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to such Holder and such Holder's other Attribution Parties and not to any other Holder of Notes that is not an Attribution Party of such Holder. For purposes of clarity, the shares of Common Stock issuable pursuant to the terms of this Indenture and the Notes in excess of the Maximum Percentage shall not be deemed to be beneficially owned by the Holder for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act. No prior inability to issue shares of Common Stock to the Holder pursuant to a Note pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect to any subsequent determination of the ability to issue shares of Common Stock hereunder. The provisions of this paragraph shall be construed and implemented in a manner other than in strict conformity with the terms of this **Section 6.09(A)**, to the extent necessary to correct this paragraph or any portion of this paragraph which may be defective or inconsistent with the intended beneficial ownership limitation contained in this **Section 6.09(A)**, or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of a Note. Notwithstanding anything to the contrary herein, for any conversion or issuance of shares in which any Holder, together with its Attribution Parties, would beneficially own, in the aggregate, in excess of the Maximum Percentage of shares of Common Stock, such Holder must deliver to the Company written notice at least one (1) Business Day in advance of such conversion or issuance of shares (the "**Maximum Percentage Notice**"). The Maximum Percentage Notice will state that such conversion or issuance of shares will exceed the Maximum Percentage. If such Holder fails to deliver the Maximum Percentage Notice, the Company shall not be deemed to be in breach of this Indenture for the exercise of such conversion or issuance of shares. If all or part of a Holder's Notes are converted into the right to receive shares of Common Stock upon a Forced Conversion as described above, the Holder will promptly inform the Company, in reliance on the Reported Outstanding Share Number, when all or part of the shares of Common Stock can be issued without exceeding the Maximum Percentage of it and its Attribution Parties and the Company shall promptly issue such shares.

(B) *HSR Clearances.* Notwithstanding anything to the contrary in the Indenture or the Notes, the Company shall not effect the conversion of any portion of a Note, or otherwise issue shares pursuant to a Note, and no Holder shall have the right to exercise any right to receive shares pursuant to a Note or otherwise convert any portion of such Holder's Note pursuant to the terms and conditions of the Indenture and such Holder's Note, and any such payment, conversion or issuance shall be null and void and treated as if never made, unless and until after giving effect to such conversion or issuance of shares of Common Stock, the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), shall have expired or been terminated, and any required clearances consents, approvals, and

waivers under any other antitrust laws applicable to the consummation of any such conversion or issuance of shares of Common Stock shall have been obtained. In furtherance and not in limitation of the foregoing, prior to any such Holder converting its Note into Common Stock, such Holder will, if required under the HSR Act, provide written notice pursuant to 16 C.F.R. § 803.5(a) to the Company, and (x) make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated by this Indenture as promptly as practicable, (y) supply as promptly as reasonably practicable any additional information and documentary material that may be requested pursuant to the HSR Act and (z) use its commercially reasonable efforts to take or cause to be taken all other actions necessary, proper or advisable consistent with this Section 5.09(B) to cause the expiration or termination of the applicable waiting periods, or receipt of required authorizations, as applicable, under the HSR Act as soon as practicable. Without limiting the foregoing, the parties shall request and shall use commercially reasonable efforts to obtain early termination of the waiting period under the HSR Act.

(C) Under no circumstances shall the Trustee have any obligation to identify any beneficial owner of Common Stock, or otherwise make any determination, monitor, or otherwise take any action with respect to the restrictions set forth in this Article 6.

Section 6.10. Responsibility of the Trustee.

The Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, monitoring the Company's stock trading price or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to **Section 6.08** relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such **Section 6.08** or to any adjustment to be made with respect thereto, but, subject to the provisions of the Base Indenture, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officers' Certificate with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by this **Article 6** has occurred that makes the Notes eligible for conversion or no longer eligible therefor until the Company has delivered to the Trustee and the Conversion Agent the notices referred to in this **Article 6** with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely.

Article 7. SUCCESSORS

Section 7.01. When the Company May Merge, Etc.

(A) *Generally.* The Company will not consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person(a “**Business Combination Event**”), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is an entity (the “**Successor Entity**”) duly organized and existing under the laws of its jurisdiction of organization that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplement to this instrument) all of the Company’s obligations under the Securities Purchase Agreement, the Indenture, the Notes and the other Transaction Documents; and

(ii) the Company has complied with its obligations under **Section 5.02** and 6.08 prior to the consummation of the Business Combination Event; and

(iii) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

(B) *Delivery of Officer’s Certificate and Opinion of Counsel to the Trustee.* Before the effective time of any Business Combination Event, the Company will deliver to the Trustee an Officer’s Certificate and Opinion of Counsel, each stating that (i) such Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 7.01(A)**; and (ii) all conditions precedent to such Business Combination Event provided in the Indenture have been satisfied.

Section 7.02. Successor Entity Substituted.

At the effective time of any Business Combination Event that complies with **Section 7.01**, the Successor Entity (if not the Company) will succeed to, and may exercise every right and power of, the Company under the Indenture and the Notes with the same effect as if such Successor Entity had been named as the Company in the Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations with respect to the Note under the Indenture and the Notes.

Article 8. DEFAULTS AND REMEDIES

Section 8.01. Events of Default.

(A) *Definition of Events of Default.* “**Event of Default**” means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default for two (2) Business Days in the payment when due of interest on any Note;

(iii) a default in the Company's obligation to convert a Note in accordance with Article 6 upon the exercise of the conversion right with respect thereto;

(iv) the Company's failure to timely deliver, when required by the Indenture, a Fundamental Change Notice;

(v) a materially false or inaccurate certification (including a false or inaccurate deemed certification) by the Company (A) that the Equity Conditions are satisfied or (B) as to whether any Event of Default has occurred;

(vi) a default in the Company's obligations under **Article 7 and Sections 3.01 (A), (F) and (G)**;

(vii) a default in any of the Company's obligations or agreements under the Indenture, the Notes or the other Transaction Documents (other than a default set forth in **clause (i) through (vi) or (viii) through (xviii) of this Section 8.01(A)**), or a breach of any representation, warranty or covenant in any material respect (other than representations or warranties subject to material adverse effect or materiality qualifications, which may not be breached in any respect) of any Transaction Document; *provided, however*, that if such default can be cured, then such default shall not be an Event of Default unless the Company has failed to cure such default within the following number of applicable days after the Company becomes aware of, or by exercise of reasonable prudence would have become aware of, its occurrence (the "**Cure Period**") and *provided, further*, that solely with respect to a default of the covenant set forth in **Section 4.14**, there must be a minimum of (30) days between any two Cure Periods: (A) with respect to a default in respect of the covenants set forth in **Section 4.09, Section 4.14** (other than set forth in (B) below), **Section 4.15, Section 4.18, Section 4.19 or Section 4.24** herein, five (5) days, (B) with respect to a default of the covenant set forth in **Section 4.14** herein occurring prior to June 30, 2024, thirty (30) days; provided, that, at the time of such default and during the related Cure Period (x) the Company has a market capitalization equal to or greater than seven hundred million dollars (\$700,000,000) as measured by Bloomberg L.P., (y) the Equity Conditions are satisfied and (z) the Company has Liquidity of equal to or greater than twenty five million dollars (\$25,000,000) or (C) otherwise, thirty (30) days. For the avoidance of doubt, the five (5) day Cure Period will apply under subsection (B) above, if during such thirty (30) day period, the Company decreases its Liquidity below twenty five million dollars (\$25,000,000);

(viii) (i) the failure of the Company or any of its Significant Subsidiaries to pay when due (giving effect to any applicable grace period) any Indebtedness having a principal amount in excess of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Significant Subsidiaries, whether such Indebtedness exists as of the Issue Date or is thereafter created; or (ii) the occurrence of any breach or default under any terms or provisions of any other Indebtedness in a principal amount in excess of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Significant Subsidiaries, if the effect of such failure or occurrence is to cause such Indebtedness to become or be declared due prior to its stated maturity; provided, however, that if prior to any acceleration of the Notes, any such failure, breach or default in respect of such other Indebtedness is cured or waived, any acceleration related thereto rescinded, or such Indebtedness is repaid during the ten (10) Business Day period commencing upon the end of any applicable grace period for any such failure to pay or the occurrence of such acceleration, as the case may be, any Default or Event of Default (but not any acceleration of the Notes) caused by such failure, breach, default or

acceleration shall be automatically rescinded, so long as such rescission does not conflict with any judgment, decree or applicable law;

(ix) one or more final judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, could result in a judgment, order or award) for the payment of at least ten million dollars (\$10,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance pursuant to which the insurer has been notified and has not denied coverage), is rendered against the Company or any of its Significant Subsidiaries and remains unsatisfied and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order or award or settlement or (ii) there shall be a period of ten (10) consecutive Business Days after entry thereof during which (A) a stay of enforcement thereof is not in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

(x) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

- (1) commences a voluntary case or proceeding;
- (2) consents to the entry of an order for relief against it in an involuntary case or proceeding;
- (3) consents to the appointment of a custodian of it or for any substantial part of its property;
- (4) makes a general assignment for the benefit of its creditors;
- (5) takes any comparable action under any foreign Bankruptcy Law; or
- (6) generally is not paying its debts as they become due; or

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

- (1) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case or proceeding;
- (2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;
- (3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or
- (4) grants any similar relief under any foreign Bankruptcy Law,

and, in each case under this **Section 8.01(A)(x)**, such order or decree remains unstayed and in effect for at least thirty (30) days; and

(xii) prior to the occurrence of a Forced Conversion of all outstanding Notes (or as otherwise expressly contemplated herein), the Pledge Agreement or Mortgages shall for any reason fail or cease to create a separate valid and perfected first priority (subject

to Permitted Liens (as defined in the Secured Indenture), including those that arise by operation of law) Lien on a material portion of the Collateral, in each case, in favor of the Collateral Trustee in accordance with the terms thereof, or any material provision of Pledge Agreement or Mortgages shall at any time for any reason cease to be valid and binding on or enforceable against the Company or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any governmental authority having jurisdiction over the Company, seeking to establish the invalidity or unenforceability thereof;

(xiii) [reserved];

(xiv) [reserved];

(xv) the suspension from trading or failure of the Common Stock to be trading or listed on an Eligible Exchange for a period of three (3) consecutive Trading Days;

(xvi) [reserved];

(xvii) the Company is in material breach of Section 4(r) of the Securities Purchase Agreement; and

(xviii) the Company (A) fails to timely file its quarterly reports on Form 10-Q or its annual reports on Form 10-K with the SEC in the manner and within the time periods required by the Exchange Act (giving effect to any applicable extensions or grace periods) or (B) restates any such quarterly report or annual report previously filed with the Commission as a result of a misstatement or omission in quarterly report or annual report that would reasonably be expected to cause a Material Adverse Effect.

(B) *Cause Irrelevant.* Each of the events set forth in **Section 8.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

(C) *Notice of Events of Default.* Promptly, but in no event later than ten (10) Business Days after the Company becomes aware of, or by exercise of reasonable prudence would have become aware of, an Event of Default, the Company will provide written notice of such Event of Default (an “**Event of Default Notice**”) to the Collateral Agent, the Collateral Trustee and a Responsible Officer of the Trustee, which Event of Default Notice shall include (i) a reasonable description of the applicable Event of Default, (ii) the date on which the Event of Default occurred and (iii) the date on which the Event of Default initially occurred.

Section 8.02. Acceleration.

(A) *Automatic Acceleration in Certain Circumstances.* If an Event of Default set forth in **Section 8.01(A)(x)** or **8.01(A)(xi)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then an amount equal to the Acceleration Amount will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration.* If an Event of Default (other than an Event of Default set forth in **Section 8.01(A)(x)** or **8.01(A)(xi)**) with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Required Holders, by providing written notice to the Company and the Trustee (an “**Optional**”

Acceleration Notice”), may declare an amount equal to the Acceleration Amount with respect to all of the Notes then outstanding to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in the Indenture or the Notes, the Required Holders, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 8.03. Other Remedies.

(A) *Trustee May Pursue All Remedies*. If an Event of Default has occurred, the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of the Indenture or the Notes.

(B) *Procedural Matters*. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

(C) *Deposit Account Control Agreement*. Unless an Event of Default has occurred and is continuing and notice has been delivered by the Collateral Trustee pursuant to the Collateral Trust Agreement, the Collateral Trustee shall not, and the Collateral Agent shall not instruct the Collateral Trustee to, issue any instructions with respect to any account subject to any Deposit Account Control Agreement or any cash or other assets on deposit in or held in any such account and shall not give instructions on consent to the delivery of any such exercise or issuance by the Collateral Trustee unless required under the Collateral Trust Agreement, but will otherwise continue to exercise dominion or control over such account.

Section 8.04. Waiver of Past Defaults.

An Event of Default pursuant to **clause (i), (ii), (iii) or (vii) of Section 8.01(A)** (provided that, in the case of **clause (vii)** only, such Event of Default results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Required Holders by written notice to the Company and the Trustee. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 8.05. Control by Majority.

Subject to the Collateral Trust Agreement, the Required Holders may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or Collateral Agent or exercising any trust or power conferred on it. However, the Trustee and Collateral Agent each may refuse to follow any direction that conflicts with law, the Indenture, the Notes, or any other Collateral Document or that, the Trustee or Collateral Agent, as applicable, determines may be unduly prejudicial to the rights of other Holders (it being understood that the Trustee and Collateral Agent do not have an affirmative duty to determine

whether any direction is prejudicial to the rights of any Holder) or may involve the Trustee or the Collateral Agent in liability, unless the Trustee or Collateral Agent is offered security and indemnity satisfactory to the Trustee or Collateral Agent, as applicable, against any loss, liability or expense to the Trustee or Collateral Agent, as applicable, that may result from the Trustee's or Collateral Agent's, as applicable, following such direction.

Section 8.06. Limitation on Suits.

No Holder may pursue any remedy with respect to the Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; (y) the Company's obligations to convert any Notes pursuant to Article 6 or (z) its rights to receive shares of Common Stock issuable under Section 3.01(A), cash payments under Section 3.01 (F) or a Make-Whole Payment under Section 3.01(G)), unless:

- (A) such Holder has previously delivered to the Trustee notice of an Event of Default;
- (B) the Required Holders deliver a request to the Trustee to pursue such remedy;
- (C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;
- (D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and
- (E) during such sixty (60) calendar day period, the Required Holders do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use the Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of the Indenture complies with the preceding sentence.

Section 8.07. Absolute Right of Holders to Receive Payment and Conversion Consideration and to Institute Suit for the Enforcement of such Right.

Notwithstanding anything to the contrary in the Indenture or the Notes (but without limiting **Section 9.01**), the right of each Holder of a Note to receive (i) the shares of Common Stock issuable pursuant to Section 3.01(A) of this Indenture, (ii) cash payments under Section 3.01(F) of this Indenture, (iii) a Make-Whole Payment under Section 3.01(G) of this Indenture and (iv) payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to Article 6 upon conversion of, such Note on or after the respective due dates therefor provided in the Indenture and the Notes, or to bring suit for the enforcement of any such payment or delivery after such respective due dates, will not be impaired or affected without the consent of such Holder.

Section 8.08. Collection Suit by Trustee.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i), (ii), (iii) or (vii) of Section 8.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for (x) the shares of Common Stock issuable pursuant to Section 3.01(A) of this Indenture and (y) the total unpaid or

undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to Article 6 upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in Section 7.7 of the Base Indenture; provided that nothing in this Indenture shall require the Trustee to take ownership, control or possession of or to assist in the delivery of Common Stock.

Section 8.09. Trustee May File Proofs of Claim.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to Section 7.7 of the Base Indenture. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in the Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 8.10. Priorities.

The Trustee will pay or deliver in the following order any money or other property that it collects or receives from the Company, the Collateral Agent or from the Collateral Trustee pursuant to this **Article 8**:

First: to the Trustee, the Collateral Agent and the Collateral Trustee and their respective agents and attorneys for amounts due under the Base Indenture and this Supplemental Indenture and the Collateral Documents, including payment of all fees, compensation, expenses and liabilities incurred, and all advances made, by the Trustee, the Collateral Agent or the Collateral Trustee, as applicable, and the costs and expenses of collection;

Second: to Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Acceleration Amount due, or any Make-Whole Payment due, or any cash payment required on a Stock Shortfall Payment Date, or any Conversion Consideration that consists of cash due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Third: to the Company or such other Person as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 8.10**, in which case the Trustee will instruct the Company to,

and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 8.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under the Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided, however*, that this **Section 8.11** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 8.07** or any suit by the Required Holders.

Section 8.12. Trustee's Obligation to Provide Notice of Defaults to Holders.

If a Default has occurred and is continuing or an Event of Default occurs and is actually known to a Responsible Officer of the Trustee, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not actually known to a Responsible Officer of the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes actually known to a Responsible Officer; *provided, however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not be deemed to have notice of any Default or Event of Default (other than a Default of any payment) unless written notice of any event that is in fact such a Default or Event of Default is received by a Responsible Officer at the address of the Trustee pursuant to **Section 14.01**, and such notice references the Notes and this Supplemental Indenture and states it is a notice of default.

Article 9. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.01. Without the Consent of Holders.

Notwithstanding anything to the contrary in **Section 9.02**, the Company, the Trustee and the Collateral Agent, as applicable, may amend or supplement the Indenture, the Notes or the Collateral Documents without the consent of any Holder to:

- (A) cure any ambiguity or correct any omission, defect or inconsistency in the Indenture or the Notes;
- (B) add guarantees with respect to the Company's obligations under the Indenture or the Notes;
- (C) secure the Notes with additional collateral;
- (D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;
- (E) provide for the assumption of the Company's obligations under the Indenture and the Notes pursuant to, and in compliance with, **Article 7** or to provide for the assumption of any Grantor's obligations under the Collateral Documents or the addition of one or more additional

grantors, pledgors or mortgagors, as applicable under the Collateral Documents, in each case, pursuant to and in compliance with Section 3.25(B);

(F) release all or any portion of the Collateral (or all or any portion of the value of the Collateral) or release a guarantor from their guarantee of the Secured Obligations, each in accordance with the Indenture or the Collateral Documents;

(G) enter into a supplemental indenture pursuant to, and in accordance with, Section 6.08 in connection with a Common Stock Change Event to provide that the Notes will be convertible in the manner, and subject to the provisions, set forth in Section 6.08, and make related changes to the extent expressly required by this Supplemental Indenture evidence or provide for the acceptance of the appointment, under the Indenture, of a successor Trustee

(H) comply with any requirement of the SEC in connection with effecting or maintaining the qualification of the Indenture, or any supplemental indenture thereto, under the Trust Indenture Act, as then in effect;

(I) provide for any transfer restrictions that apply to any Notes issued under the Indenture (other than the Initial Notes) that, at the time of their original issuance, constitute "restricted securities" within the meaning of Rule 144 under the Securities Act or that are originally issued in reliance upon Regulation S under the Securities Act; or

(J) make any other changes to the Indenture or the Notes that does not, individually, or in the aggregate with all other such changes, adversely affect the rights of the Holders in any material respect.

In addition, without consent of any Holder, and notwithstanding anything to the contrary in this Indenture or the Notes, (i) as provided in Section 12.01 or (ii) if the Notes have been repaid, redeemed in full and/or converted into Common Stock in full, in each case, the Collateral shall be automatically released from the Liens created by the Collateral Documents (in the case of (ii), with respect to the obligations in respect of the Notes), and all obligations of the Collateral Agent and the Grantors shall automatically terminate, all without delivery of any instrument or any further action by any party, and all rights to the Collateral shall revert to the Grantors, as applicable. At the request and sole expense of Grantors, as applicable, following any such termination, the Collateral Agent shall deliver (or cause the Collateral Trustee to deliver) to Grantors, as applicable, any Collateral held by the Collateral Agent or the Collateral Trustee, as applicable, under any Collateral Documents, and execute and deliver (or cause the execution and delivery) to Grantors, as applicable any documents that Grantors, as applicable, shall reasonably request to evidence such termination.

Section 9.02. With the Consent of Holders.

(A) *Generally.* Subject to **Sections 9.01, 8.04, 8.05 and 8.07** and the immediately following sentence, the Company, the Trustee and the Collateral Agent, as applicable, may, with the consent of the Required Holders, amend or supplement the Indenture, the Notes or the Collateral Documents or waive compliance with any provision of the Indenture, the Notes or the Collateral Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 9.01**, without the consent of each affected Holder, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may:

- (i) reduce the principal, or extend the stated maturity, of any Note;

- (ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;
- (iii) reduce the rate, or extend the time for the payment, of interest on any Note;
- (iv) reduce the amount, or extend the time for the issuance, of any shares of Common Stock issuable pursuant to Section 3.01(A) or cash payment on the Stock Shortfall Payment Date pursuant to Section 3.01(F) or Make-Whole Payment pursuant to Section 3.01(G), of this Indenture and the Notes;
- (v) make any change that adversely affects the conversion rights of any Note;
- (vi) impair the rights of any Holder set forth in **Section 8.07** (as such section is in effect on the Issue Date);
- (vii) change the ranking of the Notes;
- (viii) make any Note payable in money, or at a place of payment, other than that stated in the Indenture or the Note;
- (ix) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or
- (x) make any change to this Section 8.02 or any other amendment, supplement, waiver or modification provision of the Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i), (ii), (iii) and (iv)** of this **Section 9.02(A)**, no amendment or supplement to the Indenture or the Notes, or waiver of any provision of the Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holdings Need Not Approve the Particular Form of any Amendment.* A consent of any Holder pursuant to this **Section 9.02** need only approve the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 9.03. Notice of Amendments, Supplements and Waivers.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 9.01** or **9.02** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided, however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 9.04. Revocation, Effect and Solicitation of Consents; Special Record Dates; Etc.

(A) *Revocation and Effect of Consents.* The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 9.04(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates.* The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 9**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 9.04(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided, however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents.* For the avoidance of doubt, each reference in the Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect.* Each amendment, supplement or waiver pursuant to this **Article 9** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 9.05. Notations and Exchanges.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee, at the Company's direction, or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee, at the Company's direction, may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 9.05** will not impair or affect the validity of such amendment, supplement or waiver.

Section 9.06. Trustee to Execute Supplemental Indentures.

The Trustee and the Collateral Agent will execute and deliver any supplemental indenture or amendment authorized pursuant to this **Article 9**; *provided, however*, that the Trustee and the Collateral Agent need not (but may, in its sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the Trustee's and the Collateral Agent's rights, duties, liabilities, indemnities or immunities. In executing any such supplemental indenture or amendment, the Trustee and the Collateral Agent will be entitled to receive, and (subject to Sections 7.1 and 7.2 of the Base Indenture) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by the Indenture; and (B)

in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms.

Article 10. SATISFACTION AND DISCHARGE

Section 10.01. Termination of Company's Obligations.

The Indenture will be discharged, and will cease to be of further effect, as to all Notes issued under the Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.12**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on the Redemption Date, the Fundamental Change Repurchase Date, a Forced Conversion, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.12**);

(C) the Company has paid all other amounts payable by it under the Indenture with respect to the Notes; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of the Indenture with respect to the Notes have been satisfied;

provided, however, that **Article 13** of this Indenture and **Section 14.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.14** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of the Indenture as to the Notes.

Section 10.02. Repayment to Company.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 10.03. Reinstatement.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 10.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of the Indenture pursuant to **Section 10.01** will be rescinded; *provided, however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 11. COLLATERAL AGENCY

Section 11.01. Collateral Agent.

Each Holder, by its acceptance of a Note, hereby (i) designates and appoints HB Fund LLC to act as the Collateral Agent hereunder, (ii) designates and appoints the Collateral Agent to act as the Convertible Parity Lien Representative under the Collateral Trust Agreement and (iii) authorizes and directs the Collateral Agent to appoint the Collateral Trustee under the Collateral Trust Agreement, in each case, on behalf of the Holders, the Collateral Agent and the Trustee under this Agreement and the other Transaction Documents.

Subject in all cases to the Collateral Trust Agreement, the Collateral Agent shall hold (or cause the Collateral Trustee to hold), and will be entitled to enforce, all Liens and securities interests required by the terms of the Notes. Except as provided by the Holders of at least a majority in principal amount of the outstanding Notes, the Collateral Agent shall not be obligated:

- (a) to act upon directions purported to be delivered to it by any Person;
- (b) to foreclose upon or otherwise enforce any Lien; or
- (c) to take any other action whatsoever with regard to any or all of the Collateral Documents, the Liens created thereby or the Collateral.

Section 11.02. Application Proceeds of any Collateral.

Subject in all cases to the Collateral Trust Agreement, if any collateral securing any of the Notes is sold or otherwise realized upon by the Collateral Agent in connection with any foreclosure, collection or other enforcement of Liens or security interests granted to the Collateral Agent or by the Collateral Trustee to secure the Notes, the proceeds received by the Collateral Agent from such foreclosure, collection or other enforcement will be delivered by the Collateral Agent to the Trustee for application in accordance with **Section 8.10**.

Subject to the provisions of **Article 13** of this Indenture and to the Collateral Trust Agreement, the Collateral Agent may direct, on behalf of the Holders of the Notes, the Collateral Trustee to take all actions it deems necessary or appropriate in order to enforce any of the terms of any applicable collateral documents and to collect and receive any and all amounts payable by the

Company in respect of the Notes.

Section 11.03. Limitation on the Duty of Collateral Agent in Respect of Collateral.

The Collateral Agent shall be deemed to have exercised reasonable care in the custody of any collateral securing the Notes in its possession if such collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any such collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Agent in good faith.

The Collateral Agent shall not be responsible for the existence, genuineness or value of any of the collateral securing the Notes or for the validity, perfection, priority or enforceability of the liens or securities interests in any such collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes negligence or willful misconduct on the part of the Collateral Agent, for the validity or sufficiency of any such collateral or any agreement or assignment contained therein, for the validity of the title of the Company to any such collateral, for insuring any such collateral or for the payment of taxes, insurance premiums or other related payments, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of any such collateral.

The Collateral Agent is authorized and directed to (i) enter into the Transaction Documents to which it is party, whether executed on or after the Closing, (ii) bind the Trustee and the Holders on the terms as set forth in the Transaction Documents, and (iii) perform and observe its obligations under the Transaction Documents.

Notwithstanding anything to the contrary contained herein, the Collateral Agent shall only act pursuant to the instructions of the requisite Holders or in accordance with the Collateral Trust Agreement, with respect to the Transaction Documents and the Collateral and the Trustee shall have no obligation to provide any direction or instruction to the Collateral Agent, in its capacity as such or in its capacity as the Convertible Parity Lien Representative.

Any corporation or association into which either the Collateral Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Collateral Agent, is a party, will be and become the successor to the Collateral Agent (including in its capacity as Convertible Parity Lien Representative), under this Agreement and the other Transaction Documents and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

Notwithstanding anything to the contrary contained herein, in the event of a conflict with the terms of this **Section 11.03** and the terms of the Collateral Trust Agreement, the Collateral Trust Agreement will control.

The Collateral Agent may resign at any time without cause by giving at least 30 days' prior written notice to the Issuer, the Trustee and the Holders. The Holders that hold the majority of the outstanding Notes may at any time remove the Collateral Agent without cause by an instrument in writing delivered to the Issuer, the other Holders, the Trustee and the Collateral Agent. No resignation by or removal of the Collateral Agent pursuant to this **Section 11.03** shall

become effective prior to the date of appointment by such Holders of a successor Collateral Agent and the acceptance of such appointment by such successor Collateral Agent.

Article 12. COLLATERAL AND SECURITY

Section 12.01. General.

The Notes shall be secured on a first-priority basis (subject to Permitted Liens (as defined in the Secured Indenture)) with Liens on the Collateral. On and following the date that the Secured Notes are no longer outstanding, the Notes shall be unsecured, and all Collateral will be automatically released from the Liens created by the Collateral Documents (other than Liens securing any accounts with a Blocked DACA in effect). The Secured Parties will cease to benefit from any of the provisions in Article 12 or the Collateral Documents.

Section 12.02. Security Documents.

(A) In order to secure the Secured Obligations, (i) the Pledgor, on the Issue Date simultaneously with the execution and delivery of this Supplemental Indenture, entered into Pledge Agreement granting the Collateral Trustee a Lien, subject only to Permitted Liens (as defined in the Secured Indenture), on the Collateral and (ii) the Company agrees that it will take all such action as shall be reasonably required to ensure that the Secured Obligations will at all times be secured by a Lien, subject only to Permitted Liens (as defined in the Secured Indenture), on the Collateral, except as otherwise permitted by the terms of this Indenture.

(B) Each Holder of Notes, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Pledge Agreement, 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, to have authorized and directed the Collateral Trustee to enter into the Pledge Agreement, and to have authorized and empowered the Collateral Trustee to bind the Holders of Notes as set forth in the Pledge Agreement and to perform its obligations and exercise its rights and powers thereunder, including entering into amendments permitted by the terms of the Indenture or the Pledge Agreement.

(C) Notwithstanding anything to the contrary set forth in this Indenture or in any other Collateral Document, neither the Trustee nor the Collateral Agent shall be responsible for the existence, genuineness or value of any of the Collateral, or for the creation, validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Grantors to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral.

(D) The Trustee shall have no obligation to give, execute, deliver, file, record, authorize or obtain any financing statements, notices, instruments, documents, agreements, consents or other papers as shall be necessary to (i) create, preserve, perfect or validate the security interest granted to the Collateral Agent or the Collateral Trustee pursuant to the this Indenture or the Pledge Agreement or the other Collateral Documents or (ii) enable the Collateral Trustee to exercise and enforce its rights under this Indenture or the Pledge Agreement or the other Collateral Documents with respect to such pledge and security interest. In addition, the Trustee shall have no responsibility or liability (i) in connection with the acts or omissions of the Company in respect of the foregoing or (ii) for or with respect to the legality, validity and

enforceability of any security interest created in the Collateral or the perfection and priority of such security interest.

(E) Within 60 days of the Issue Date (or such later date agreed to by the Collateral Trustee in its sole discretion), the Company will cause the Mortgagor to deliver to the Collateral Trustee under the Collateral Trustee Agreement Mortgages encumbering the Mortgaged Property and deliver to the Collateral Trustee an Opinion of Counsel of Kean Miller LLP, dated on or before the date of the Mortgages, and covering matters customary in similar transactions, in a form and substance reasonably satisfactory to the Collateral Trustee under the Collateral Trust Agreement.

Section 12.03. [Reserved].

Section 12.04. Possession, Use and Release of Collateral.

(A) Each Holder, by accepting a Note, consents and agrees to the provisions of the Collateral Documents and this Indenture governing the possession, use and release of Collateral. Each Holder, by accepting a Note, consents and agrees that Collateral may, and, as applicable, shall, be released or substituted in accordance with the terms of this Supplemental Indenture and the Collateral Documents.

(B) The Collateral Trustee's Liens upon the Collateral shall automatically be released in whole, upon payment in full and discharge of all outstanding Secured Obligations or in accordance with the final paragraph of **Section 9.01**.

(C) In addition to the foregoing, Liens on Collateral securing the Notes will be entitled to be released under the following circumstances:

(1) with the consent of the Holders in accordance with **Section 9.02** of this Supplemental Indenture; or

(2) if (a) the Pledged Collateral is sold, transferred or otherwise disposed of by the Pledgor to the Issuer or a Wholly Owned Subsidiary in a transaction permitted by this Indenture; provided that such transferee shall promptly deliver to the Collateral Trustee a fully executed pledge agreement substantially in the form of the Pledge Agreement with respect to the Pledged Collateral or (b) the Mortgaged Property is sold, transferred or otherwise disposed of by the Mortgagor to ProductionCo or a Wholly Owned Subsidiary thereof in a transaction permitted by this Indenture; provided that such transferee shall promptly deliver to the Collateral Trustee fully executed mortgages substantially in the form of the Mortgages with respect to the Mortgaged Property.

(D) The Collateral Trustee shall execute and deliver all such authorizations and other instruments and take such actions (and the Holders will be deemed to have consented to and authorized the Collateral Trustee to execute and deliver any such authorization or instrument and take any such action) as shall reasonably be required by the Collateral Trustee to evidence, confirm and effectuate any release of Collateral provided for in **Section 12.04(B)** and **(C)**.

(E) The Trustee, the Collateral Agent and the Collateral Trustee shall be entitled to receive an Opinion of Counsel and Officers' Certificate in connection with any release of Liens evidencing compliance with the terms of this Indenture and the Collateral Documents.

Section 12.05. Suits to Protect Collateral.

Subject to **Sections 13.01** and **13.02** of this Indenture and the provisions of the Collateral Documents, the Trustee or Collateral Agent may, in their sole discretion and without the consent of the Holders, on behalf of the Holders, and shall at the direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes, take all actions it deems necessary or appropriate in order to enforce any of the terms of the Collateral Documents and collect and receive any and all amounts payable in respect of the Secured Obligations. Subject to the provisions of the Collateral Documents, each of the Trustee and Collateral Agent shall have power, exercisable in its sole discretion and without the consent of the Holders, or at the direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes, to institute and to maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of the Collateral Documents or the Indenture, and such suits and proceedings as the Trustee or Collateral Agent may deem necessary to protect its interests and the interests of the Trustee or Collateral Agent and the Holders in the Collateral.

Section 12.06. Powers Exercisable by Receiver, Trustee or Collateral Agent.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this **Article XII** and the Collateral Documents upon the Issuer with respect to the release, sale or other disposition of such property may be exercised by such receiver, trustee or the Collateral Agent, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or of any Officer or Officers of the Issuer required by the provisions of this **Article XII**.

Section 12.07. Determinations Relating to Collateral.

In the event (i) the Trustee or Collateral Agent shall receive any written request from the Issuer under the Collateral Documents for consent or approval with respect to any matter or thing relating to the Collateral or the Issuer's obligations with respect thereto, (ii) there shall be required from the Trustee or Collateral Agent under the provisions of the Collateral Documents any performance or the delivery of any instrument or (iii) a Responsible Officer of the Trustee and an Officer of the Collateral Agent shall receive written notice of any nonperformance by the Issuer of any covenant or any breach of any representation or warranty of the Issuer set forth in the Collateral Documents, and, in the case of clause (i), (ii) or (iii) above, the Trustee or Collateral Agent reasonably believes that the Trustee's or Collateral Agent's response or action is not otherwise specifically contemplated hereunder or under the Collateral Documents, then, in each such event, the Trustee or Collateral Agent shall, within 30 Business Days, advise the Holders, in writing and at the Issuer's expense, of the matter or thing as to which consent has been requested or the performance or instrument required to be delivered or the nonperformance or breach of which it has received written notice. The Holders of not less than a majority in aggregate principal amount of the then outstanding Notes pursuant to **Section 8.05** of this Supplemental Indenture shall have the exclusive authority to direct the response of the Trustee or the Collateral Agent, as the case may be, to any of the circumstances contemplated in clauses (i), (ii) and (iii) above.

Section 12.08. [Reserved].

Section 12.09. [Reserved].

Section 12.10. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released herefrom in accordance with the Collateral Documents shall be bound to ascertain the authority of the Trustee or Collateral Agent to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or grantee of any property or rights permitted by the Indenture to be sold or otherwise disposed of by the Issuer be under any obligation to ascertain or inquire into the authority of the Issuer to make such sale or other disposition.

Article 13. TRUSTEE

Section 13.01. Duties of Trustee.

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

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

(i) The Trustee need perform only those duties that are specifically set forth in this Indenture and no others.

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel furnished to the Trustee and conforming to the requirements of this Indenture;

however, in the case of any such Officer's Certificates or Opinions of Counsel which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such Officer's Certificates and Opinions of Counsel to determine whether or not they conform to the form requirements of this Indenture.

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

(i) This paragraph does not limit the effect of **Section 13.01(B)**.

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

(iii) The Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it with respect to the Notes in good faith in accordance with the direction of the Holders of a majority in principal amount of the outstanding Notes relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Notes in accordance with **Section 8.05** of this Indenture.

(iv) Every provision of this Indenture that in any way relates to the Trustee is subject to this **Section 13.01** and **Section 13.02**.

(v) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity reasonably satisfactory to it, in its sole discretion, against the costs, expenses and liabilities that might be incurred by it in performing such duty or exercising such right or power.

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

(vii) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers, if adequate indemnity against such risk is not assured to the Trustee to its satisfaction.

(viii) The Paying Agent, the Registrar, the Conversion Agent and any authenticating agent shall be entitled to the protections and immunities as are set forth in clauses (v), (vi) and (vii) of this **Section 13.01(C)**, **Section 13.02** and **Section 13.07**, each with respect to the Trustee.

Section 13.02. Rights of Trustee.

(A) The Trustee may conclusively rely on and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

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

(C) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care. No Depository shall be deemed an agent of the Trustee and the Trustee shall not be responsible for any act or omission by any Depository.

(D) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers, provided that the Trustee's conduct does not constitute willful misconduct or negligence.

(E) The Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder without willful misconduct or negligence, and in reliance thereon.

(F) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of the Notes unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the

costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

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

(H) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture and states that it is a notice of Default or Event of Default.

(I) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and, with respect to such permissive rights, the Trustee shall not be answerable for other than its negligence or willful misconduct.

(J) In no event shall the Trustee be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(K) The Trustee shall be entitled to request and receive written instructions from the Company or the Holders and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with the written direction of the Company or the Holders.

(L) The Trustee is not responsible for monitoring the performance of other persons or for the failure of others to perform their duties, including the Company, the Collateral Agent (including in its capacity as the Convertible Parity Lien Representative) or the Collateral Trustee.

(M) Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is the Holder of any Note, shall be conclusive and binding upon future Holders of Notes, and upon Notes executed and delivered in exchange therefor or in place thereof.

(N) The Trustee shall not be required to give any bond or surety in respect to the execution of trusts and powers under this Indenture.

(O) The Trustee shall not be responsible for, have any duties or obligations under, or be chargeable with knowledge of the terms and conditions of, any agreement to which it is not a party regardless of whether it has been provided a copy of such agreement.

(P) To the extent Holders are entitled to any consideration in the form of Common Stock or to cash consideration with respect to any Common Stock, and the Trustee determines it shall be necessary to receive such information and provides notice to both the Company and the Holders of such request, the Trustee shall be entitled to receive and conclusively rely upon certificates, notices or such other documents reasonably satisfactory to the Trustee delivered to it from the Company or the Holders with respect any such consideration; provided that to the extent any information provided by Holders with respect thereto is inconsistent with information provided by the Company, the information from any such Holder shall control.

Section 13.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or an Affiliate of the Company with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. The Trustee is also subject to **Sections 13.10** and **13.11** of this Indenture.

Section 13.04. Trustee's Disclaimer.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes or any other Transaction Document, it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement in the Notes other than its authentication.

Section 13.05. [Reserved].

Section 13.06. [Reserved].

Section 13.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time compensation for its services as the Company and the Trustee shall from time to time agree upon in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall pay or reimburse the Trustee upon request for all reasonable out-of-pocket disbursements, expenses and advances incurred or made by it in accordance with the provisions of this Indenture. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel.

The Company shall indemnify each of the Trustee and any predecessor Trustee and each of their respective officers, directors, employees, shareholders, attorneys-in-fact and agents for, and hold it harmless against, any claim, action, suit or proceeding at law or in equity, damage, demand, expense (including but not limited to reasonable compensation, disbursements and expenses of the Trustee's agents and counsel), loss, expenses, fees or charges (including taxes (other than taxes based upon the income of the Trustee)) or liability incurred by them without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust and their rights or duties hereunder including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder (including enforcement of this indemnity). The Trustee shall notify the Company promptly of any third party claim for which it may seek indemnity. The Company shall defend such claim and the Trustee shall cooperate in the defense. The Trustee may have one separate counsel (plus local counsel, if applicable) and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. This indemnification shall apply to officers, directors, employees, shareholders and agents of the Trustee.

The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee or by any officer, director, employee, shareholder or agent of the Trustee through willful misconduct or negligence.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of and interest on the Notes.

When the Trustee incurs expenses or renders services after an Event of Default specified in **Sections 8.01(A)(ix)** and **8.01(A)(x)** of this Indenture occurs, the expenses and the compensation for the services are intended to constitute administrative expenses for purposes of priority under any Bankruptcy Law.

The Company's obligations under this **Section 13.07** of this Indenture and any Lien arising hereunder shall survive the resignation or removal of the Trustee, the repayment of the Securities, the discharge of the Company's obligations pursuant to **Article 13** of this Indenture and any rejection or termination of this Indenture under any Bankruptcy Law.

Section 13.08. Replacement of Trustee.

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

The Trustee may resign with respect to the Notes by so notifying the Company at least 30 days prior to the date of the proposed resignation. The Holders of a majority in principal amount of the Notes may remove the Trustee with respect to that Series by so notifying the Trustee and the Company at least 30 days prior to the requested date of removal. The Company may remove the Trustee with respect to the Notes if:

- (a) the Trustee fails to comply with **Section 13.10** of this Indenture;
- (b) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

If a successor Trustee with respect to the Notes does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least a majority in principal amount of the Notes may, at the sole expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee subject to the Lien provided for in **Section 13.07** of this Indenture, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee with respect to the Notes for which it is acting as Trustee under this Indenture. A successor Trustee shall mail a notice of its succession to each Holder of each such Series. Notwithstanding replacement of the Trustee pursuant to this **Section 13.08** of this Indenture, the Company's obligations under

Section 13.07 of this Indenture hereof shall continue for the benefit of the retiring Trustee with respect to expenses and liabilities incurred by it for actions taken or omitted to be taken in accordance with its rights, powers and duties under this Indenture prior to such replacement.

Section 13.09. Successor Trustee by Merger, Etc.

If the Trustee consolidates with, merges or converts into, or sells or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee, subject to **Section 13.10** of this Indenture.

Section 13.10. [Reserved].

Section 13.11. [Reserved].

Article 14. MISCELLANEOUS

Section 14.01. Notices.

Any notice or communication by the Company or the Trustee to the other will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to the Company:

Tellurian Inc.
1201 Louisiana Street, Suite 3100
Houston, TX 77002
Attention: John Swiger, Senior Vice President and Treasurer

with a copy (which will not constitute notice) to:

Davis Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, Colorado 80202
Attention: John A. Elofson, Esq.

and

Kirkland & Ellis LLP
609 Main Street, Houston, TX 77002
Attention: Rachael L. Lichman

If to the Trustee:

Wilmington Trust, National Association
1100 North Market Street
Wilmington, Delaware 19890
Attention: Tellurian Inc. Notes Administrator

If to the Collateral Agent:

HB Fund LLC c/o Hudson Bay Capital Management LP]
28 Havemeyer Place, 2nd Floor
Greenwich, CT 06830
Attention: DI Team

The Company, the Trustee or the Collateral Agent, by notice to the other, may designate additional or different addresses (including electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to the Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register. The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in the Indenture, the Notes or the Collateral Documents, (A) whenever any provision of the Indenture, the Notes or the Collateral Documents requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of the Indenture, the Notes or the Collateral Documents requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Section 14.02. Delivery of Officer's Certificate and Opinion of Counsel as to Conditions Precedent.

Upon any request or application by the Company to the Trustee or the Collateral Agent, as applicable to take any action under the Transaction Documents (other than, with respect to (B) below, the initial authentication of Notes under the Indenture), the Company will furnish to the Trustee or the Collateral Agent:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, that complies with **Section 14.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in the Indenture and any other applicable Transaction Document relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, that complies with **Section 14.03** and states that,

in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 14.03. Statements Required in Officer's Certificate and Opinion of Counsel.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 4.03**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in the Indenture and any other applicable Transaction Document will include:

- (A) a statement that the signatory thereto has read such covenant or condition;
- (B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained therein are based;
- (C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been satisfied; and
- (D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

Section 14.04. Rules by the Trustee, the Registrar and the Paying Agent.

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

Section 14.05. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation, provided that this **Section 13.05** shall not limit any such person's liability for fraud or willful misconduct. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 14.06. Governing Law; Waiver of Jury Trial.

THE INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE TRUSTEE AND THE HOLDERS, BY THEIR ACCEPTANCE OF THE NOTES IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THE INDENTURE OR THE NOTES.

Section 14.07. Submission to Jurisdiction.

Any legal suit, action or proceeding arising out of or based upon the Indenture or the transactions contemplated by the Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party’s address set forth in **Section 14.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 14.08. No Adverse Interpretation of Other Agreements.

Neither the Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret the Indenture or the Notes.

Section 14.09. Successors.

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

Section 14.10. Force Majeure.

The Trustee, the Collateral Agent and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under the Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil or military unrest, local or national disturbance or disaster, act of terrorism, disease, earthquake, fire, flood, sabotage, epidemic, pandemic, quarantine, riot, labor dispute, accidents, interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service, malware or ransomware attack or unavailability of the Federal Reserve Bank wire or other wire or communication facility).

Section 14.11. U.S.A. PATRIOT Act.

The Company acknowledges that, in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions, in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Company agrees to provide the Trustee with such information as it may request to enable the Trustee to comply with the U.S.A. PATRIOT Act.

Section 14.12. Calculations.

The Company will be responsible for making all calculations called for under the Indenture or the Notes, including determinations of the Last Reported Sale Price, the Daily VWAP and the accrued interest on the Notes and the Conversion Rate.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification.

For the avoidance of doubt, neither the Trustee nor the Conversion Agent will have any responsibility to make any calculations called for under the Indenture, nor will the Trustee or the Conversion Agent be charged with knowledge of or have any duties to monitor the price of the Common Stock. The Trustee and the Conversion Agent may rely conclusively on the calculations and information provided to them by the Company as to the Daily VWAP and the Last Reported Sale Price and any other calculations made pursuant to the Indenture.

Section 14.13. Severability.

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

Section 14.14. Counterparts.

This Supplemental Indenture may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. Each party hereto accepts the foregoing and any document received in accordance with this **Section 14.14** shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this agreement.

The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the each of the parties hereto, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. The Trustee will be entitled to assume, without liability, the authenticity of any signature that is presented to it in compliance with the preceding sentence, *provided, that*, notwithstanding anything herein to the contrary, the Trustee is not under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Trustee pursuant to reasonable procedures approved by the Trustee.

Each of the parties hereto represents and warrants to the other parties that it has the corporate capacity and authority to execute this Supplemental Indenture through electronic means and there are no restrictions for doing so in that party's constitutive documents.

Section 14.15. Table of Contents, Headings, Etc.

The table of contents and the headings of the Articles and Sections of the Indenture have been inserted for convenience of reference only, are not to be considered a part of the Indenture and will in no way modify or restrict any of the terms or provisions of the Indenture.

Section 14.16. [Reserved].

Section 14.17. [Reserved].

Section 14.18. Global Securities.

Notwithstanding anything contained in the Base Indenture, the Notes may not be issued in the form of Global Securities.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

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

Tellurian Inc.

By: _____
Name:
Title:

Wilmington Trust, National Association, as Trustee

By: _____
Name:
Title:

HB Fund LLC, as the Collateral Agent

By: Hudson Bay Capital Management LP
Not individually, but solely as
Investment Advisor to HB Fund LLC

By: _____
Name: George Antonopoulos
Title: Authorized Signatory*

*Authorized Signatory
Hudson Bay Capital Management LP
Not individually, but solely as
Investment Advisor to HB Fund LLC.

[Signature Page to Ninth Supplemental Indenture]

FORM OF NOTE

TELLURIAN INC.

6.00% Senior Secured Convertible Note due 2025

CUSIP No.: [] Certificate No. []
ISIN No.: []

Tellurian Inc., a Delaware corporation, for value received, promises to pay to [], or its registered assigns, the principal sum of eighty three million three hundred and thirty four thousand dollars (\$83,334,000) on October 1, 2025 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: January 1, April 1, July 1 and October 1 of each year, commencing on [date].

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

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Tellurian Inc. has caused this instrument to be duly executed as of the date set forth below.

Tellurian Inc.

Date: _____ By: _____

Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Wilmington Trust, National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

TELLURIAN INC.

6.00% Senior Secured Convertible Note due 2025

This Note is one of a duly authorized issue of notes of Tellurian Inc., a Delaware corporation (the “**Company**”), designated as its 6.00% Senior Secured Convertible Notes due 2025 (the “**Notes**”), all issued or to be issued pursuant to an indenture (the “**Base Indenture**”), dated as of June 3, 2022, between the Company and Wilmington Trust, National Association, as trustee, and an Ninth Supplemental Indenture, among the Company, Wilmington Trust, National Association, as trustee, and HB Fund LLC, as collateral agent (as the same may be amended from time to time, the “**Supplemental Indenture**,” and the Base Indenture, as amended by the Supplemental Indenture, and as the same may be further amended or supplemented from time to time with respect to the Notes, the “**Indenture**”), dated as of August [●], 2023. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee, the Collateral Agent and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Supplemental Indenture. Stated Interest on this Note will begin to accrue from, and including, [date].

2. **Maturity.** This Note will mature on October 1, 2025, unless earlier repurchased, redeemed or converted.

3. **Method of Payment.** Cash amounts and shares of Common Stock due on this Note will be paid in the manner set forth in Sections 2.04 and 3.01 of the Supplemental Indenture.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** Subject to the other terms of the Indenture, if a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 5.02 of the Supplemental Indenture.

7. **Right of the Holder to Redeem the Notes.** Subject to the other terms of the Indenture, each of the Company and the Holder will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 5.03 of the Indenture.

8. **Conversion.** Each of the Company and the Holder will have the right to convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 6 of the Supplemental Indenture.

9. **When the Company May Merge, Etc.** Article 7 of the Supplemental Indenture places limited restrictions on the Company's ability to be a party to a Business Combination Event.

10. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 8 of the Supplemental Indenture.

11. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Supplemental Indenture or the Notes in the manner, and subject to the terms, set forth in Article 9 of the Supplemental Indenture.

12. **Collateral.** The obligations of the Company under the Indenture and this Note are secured by the Collateral, as set forth in the Collateral Documents. The Collateral may be released in certain circumstances set forth in Section 9.01 of the Supplemental Indenture. From and after the date that the Secured Indenture is discharged and satisfied and the Secured Notes are no longer outstanding, the Notes shall no longer be secured by the Collateral (other than Liens securing any accounts with a Blocked DACA in effect).

13. **No Personal Liability of Directors, Officers, Employees and Stockholders.** No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

14. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

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

16. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Tellurian Inc.
1201 Louisiana Street, Suite 31000
Houston, TX 77002
Attention: Legal Department

ASSIGNMENT FORM

TELLURIAN INC.

6.00% Senior Secured Convertible Notes due 2025

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: ___

Address: ___

Social security or
tax identification
number: ___

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

In connection with any transfer of the within Note, the undersigned Holder confirms that the within Note is being transferred in accordance with its terms:

CHECK ONE BOX BELOW

1. to the Company;
2. pursuant to an effective registration statement under the Securities Act of 1933;
3. inside the United States to a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933;
4. pursuant to the exemption from registration provided by Rule 144 under the Securities Act of 1933; or
5. pursuant to any other exemption from registration under the Securities Act of 1933.

Unless one of the boxes is checked, the Registrar will refuse to register the within Note in the name of any person other than the registered holder thereof; *provided, however*, that the Registrar shall be entitled to require, prior to registering any such transfer of the within Note, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933, such as the exemption provided by Rule 144 under such Act.

Date: ___ ___
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: _____

[RESERVED]

B-1

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

TELLURIAN INC.

6.00% Senior Secured Convertible Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

the entire principal amount of

\$ _____³ aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that this Notice, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: ____ ____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: _____

³ Must be an Authorized Denomination.

[Reserved.]

EXHIBIT D

D-1

FORM OF COMPANY CONVERSION NOTICE

TELLURIAN INC.

6.00% Senior Secured Convertible Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the Company hereby notifies the Holder of the Note (with a copy to the Trustee) of the entire principal amount of the Notes identified by CUSIP No. _____ and Certificate No. _____.

By delivering this Company Conversion Notice, the Company hereby represents and warrants that the Equity Conditions are satisfied as of the date hereof. The Company acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then the Holder of such Note shall be entitled to an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Tellurian Inc.

Date: ____ By: __

Name:
Title:

FORM OF HOLDER CONVERSION NOTICE

TELLURIAN INC.

6.00% Senior Secured Convertible Notes due 2025

Subject to the terms of the Indenture, by executing and delivering this Holder Conversion Notice, the Holder hereby notifies the Company of the Holder's election to convert (check one):

the entire principal amount of

\$ _____⁴ aggregate principal amount of

the entire Acceleration Amount due under

\$ _____⁵ aggregate principal amount constituting a portion of the Acceleration Amount due under

the Note identified by CUSIP No. _____ and Certificate No. _____.

Holder contact information:

Contact Name: __

Contact Address: __

Contact Email: __

Contact Telephone: __

By delivering this Holder Conversion Notice, the undersigned Holder hereby represents and warrants that (i) such Holder together with their other Attribution Parties will not collectively beneficially own in the aggregate in excess of the Maximum Percentage of the number of shares of Common Stock outstanding immediately after giving effect to the conversion provided for in this Holder Conversion Notice and (ii) Section 5.09(B) has been complied with.

The undersigned acknowledges that this Notice, duly endorsed for transfer, must be delivered to the Conversion Agent before any Conversion Consideration will be delivered.

Delivery Instructions:

Unless the Holder directs otherwise below, the Holder hereby requests that the Conversion Consideration (which includes shares of Common Stock in connection with the conversion of the Note and cash in respect of any accrued and unpaid interest on the Note) be delivered to the Holder as follows: (i) the shares of Common Stock in connection with the conversion of the Note shall be credited to the Holder's (or its designee's) account at the Depository Trust Company (DTC) through the Transfer Agent's Deposit/Withdrawal At Custodian (DWAC) system; and (ii)

⁴ Must be an Authorized Denomination.

⁵ Must be an Authorized Denomination.

any cash with respect to any accrued but unpaid interest on the Note shall be wired to the Holder, in each case as set forth below.

DTC Account Information for Delivery of Common Stock in Connection with Conversion of Note:

Holder Name: ___

DTC Participant Name and Number: ___

DTC Participant Phone Number and Contact Email: ___

Account Name: ___

Account Number: ___

Wire Instructions for Delivery of Cash in Respect of Accrued and Unpaid Interest on Note:

Holder Name: ___

Bank: ___

Bank: ___

ABA: ___

Swift: ___

Account Number: ___

Account Name: ___

Date: ___ ___
(Legal Name of Holder)

By: ___
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory By: ___

SCHEDULE OF SHARE ISSUANCE DATES

(1)	(2)
Share Issuance Date	No of Shares
October 1, 2023	1,234,578
January 1, 2024	1,851,867
April 1, 2024	1,851,867
July 1, 2024	1,851,867
October 1, 2024	1,851,867
January 1, 2025	1,851,867
April 1, 2025	1,851,867
July 1, 2025	1,851,867
October 1, 2025	1,851,867
	16,049,514

August 8, 2023

Hudson Bay PH VIII LLC
HB Fund LLC
c/o Hudson Bay Capital Management LP
28 Havemeyer Place, 2nd Floor
Greenwich, CT 06830

Re: Agreement to Redeem 6.00% Senior Secured Convertible Note due 2025

To the addressees set forth above:

Reference is made (i) to that certain indenture, dated as of June 3, 2022, by and between Tellurian Inc., a Delaware corporation (the “**Company**”), and Wilmington Trust, National Association, as trustee (the “**Trustee**”), as amended by the first supplemental indenture, dated as of June 3, 2022, by and among the Company, the Trustee and Tech Opportunities LLC, a Delaware limited liability company, as collateral agent, the second supplemental indenture, dated as of July 18, 2022, by and between the Company and the Trustee, the third supplemental indenture, dated as of June 16, 2023, by and between the Company and the Trustee, the fourth supplemental indenture, dated as of June 29, 2023, by and between the Company and the Trustee, the fifth supplemental indenture, dated as of July 14, 2023, by and between the Company and the Trustee, the sixth supplemental indenture, dated as of July 28, 2023, by and between the Company and the Trustee and the seventh supplemental indenture, dated as of August 6, 2023, by and between the Company and the Trustee (collectively, the “**Indenture**”), pursuant to which the Company issued \$500,000,000 in aggregate principal amount of 6.00% Senior Secured Convertible Note due 2025, identified by CUSIP No. 87968A AB0, ISIN No. US87968AAB08 and Certificate No. 1 (the “**Note**”) on the terms set forth in the Indenture and (ii) to that certain Securities Purchase Agreement to be entered into as of the date hereof between the Company and the investor named therein (the “**Securities Purchase Agreement**”). Terms used but not defined herein shall have the meaning ascribed to them in the Securities Purchase Agreement.

For valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Hudson Bay PH VIII LLC, the former holder of the Note (the “**Former Holder**”), represents that on August 6, 2023, it owned the Note free and clear of all Liens. On August 6, 2023, the Former Holder transferred beneficial ownership of the Note to HB Fund LLC (the “**Current Holder**”) subject only to registration of such transfer in the records of the Trustee (the “**Settlement**”). The Current Holder represents that it is the current holder of the Note, free and clear of all Liens, subject only to the completion of the Settlement.
 2. Following the Settlement and substantially contemporaneously with the Closing, the Company shall redeem the entire outstanding principal amount and accrued but unpaid interest under the Note from the Current Holder for a total redemption price of \$299,391,238.45 (the “**Redemption Payment**”) plus accrued and unpaid interest through the date of Closing (the “**Redemption**”). In the event that (i) the Securities Purchase Agreement is not entered into as of the date hereof or (ii) the Securities Purchase Agreement is entered into but is terminated prior to the Closing, the Redemption shall not occur.
 3. The Company shall use the all of the proceeds it receives from the Closing to fully fund the Redemption Payment and shall pay any accrued and unpaid interest through the date of Closing from its working capital.
-

4. For the avoidance of doubt, the issuance of the Convertible Notes and the Non-Convertible Notes (as such terms are defined in the Securities Purchase Agreement) shall be deemed for all purposes to occur substantially contemporaneously with the Redemption and such issuance shall not constitute, cause or be deemed an Event of Default under and as defined by the Note or otherwise constitute or be deemed a breach of the terms, conditions or provisions of the Note, the Indenture or the terms of the Securities Purchase Agreement, dated as of June 1, 2022, by and between the Company and the investor named therein.

The agreement set forth in this letter agreement is limited to the extent specifically set forth above and shall in no way serve to amend or waive compliance with any terms, covenants or provisions of the Securities Purchase Agreement, the Indenture or the Note, other than as expressly set forth above.

Any breach of the terms and conditions of this letter agreement will constitute an Event of Default under and as defined by the Note.

[Signature Page Follows]

AGREED AND ACCEPTED:

HUDSON BAY PH VIII LLC

By: Hudson Bay Capital Management LP
Not individually, but solely as investment adviser to Hudson Bay PH VIII
LLC*

By: /S/ Richard Allison

Name: Richard Allison

Title: Authorized Signatory

* Authorized Signatory

Hudson Bay Capital Management LP

Not individually, but solely as investment adviser to Hudson Bay PH VIII
LLC

HB FUND LLC

By: Hudson Bay Capital Management LP
Not individually, but solely as investment adviser to HB Fund LLC*

By: /S/ Richard Allison

Name: Richard Allison

Title: Authorized Signatory

* Authorized Signatory

Hudson Bay Capital Management LP

Not individually, but solely as investment adviser to HB Fund LLC

[Signature Page to Letter Agreement]

**CERTIFICATION BY CHIEF EXECUTIVE OFFICER
PURSUANT TO RULE 13a-14(a) AND 15d-14(a) UNDER THE EXCHANGE ACT**

I, Octávio M.C. Simões, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Tellurian Inc.:
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2023

/s/ Octávio M.C. Simões

Octávio M.C. Simões
Chief Executive Officer
(as Principal Executive Officer)
Tellurian Inc.

**CERTIFICATION BY CHIEF FINANCIAL OFFICER
PURSUANT TO RULE 13a-14(a) AND 15d-14(a) UNDER THE EXCHANGE ACT**

I, Simon G. Oxley, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Tellurian Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2023

/s/ Simon G. Oxley

Simon G. Oxley
Chief Financial Officer
(as Principal Financial Officer)
Tellurian Inc.

**CERTIFICATION BY CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Tellurian Inc. (the “Company”) on Form 10-Q for the quarter ended June 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Octávio M.C. Simões, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 9, 2023

/s/ Octávio M.C. Simões

Octávio M.C. Simões

Chief Executive Officer

(as Principal Executive Officer)

Tellurian Inc.

**CERTIFICATION BY CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Tellurian Inc. (the “Company”) on Form 10-Q for the quarter ended June 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Simon G. Oxley, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 9, 2023

/s/ Simon G. Oxley

Simon G. Oxley

Chief Financial Officer

(as Principal Financial Officer)

Tellurian Inc.