UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: **PATRIOT COAL CORPORATION, *et al.*,** **Debtors.**[1]	**Chapter 11** **Case No. 12-51502-659** **(Jointly Administered)**

NOTICE OF FILING OF AMENDED PLAN SUPPLEMENTS

PLEASE TAKE NOTICE that on December 16, 2013, Patriot Coal Corporation and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**"), in accordance with and pursuant to the Debtors' Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "**Plan**"),[2] caused to be filed with the United States Bankruptcy Court for the Eastern District of Missouri amended versions of:

(i) a form of the New Bylaws of Reorganized Patriot Coal, along with a comparison against the amended version filed on December 15, 2013 (attached hereto as Exhibit 3); and

(ii) a form of the Rights Offering Notes Indenture, along with a comparison against the initial draft version filed on December 5, 2013 (attached hereto as Exhibit 4).

[1] The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

[2] Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Plan.

PLEASE TAKE FURTHER NOTICE that, the Debtors reserve the right to alter, amend, modify, or supplement any Plan Supplement as provided by the Plan; provided that if any Plan Supplement is altered, amended, modified, or supplemented in any material respect, the Debtors will file a blackline of such document with the Bankruptcy Court.

Dated: December 16, 2013
New York, New York

Respectfully submitted,

DAVIS POLK & WARDWELL LLP

/s/ Michelle M. McGreal

Marshall S. Huebner
Brian M. Resnick
Michelle M. McGreal
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 607-7983

Counsel to the Debtors
and Debtors in Possession

-and-

BRYAN CAVE LLP
Lloyd A. Palans, #22650MO
Brian C. Walsh, #58091MO
Laura Uberti Hughes, #60732MO
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, Missouri 63102
Telephone: (314) 259-2000
Facsimile: (314) 259-2020

Local Counsel to the Debtors
and Debtors in Possession

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brody Mining, LLC
11. Brook Trout Coal, LLC
12. Catenary Coal Company, LLC
13. Central States Coal Reserves of Kentucky, LLC
14. Charles Coal Company, LLC
15. Cleaton Coal Company
16. Coal Clean LLC
17. Coal Properties, LLC
18. Coal Reserve Holding Limited Liability Company No. 2
19. Colony Bay Coal Company
20. Cook Mountain Coal Company, LLC
21. Corydon Resources LLC
22. Coventry Mining Services, LLC
23. Coyote Coal Company LLC
24. Cub Branch Coal Company LLC
25. Dakota LLC
26. Day LLC
27. Dixon Mining Company, LLC
28. Dodge Hill Holding JV, LLC
29. Dodge Hill Mining Company, LLC
30. Dodge Hill of Kentucky, LLC
31. EACC Camps, Inc.
32. Eastern Associated Coal, LLC
33. Eastern Coal Company, LLC
34. Eastern Royalty, LLC
35. Emerald Processing, L.L.C.
36. Gateway Eagle Coal Company, LLC
37. Grand Eagle Mining, LLC
38. Heritage Coal Company LLC
39. Highland Mining Company, LLC
40. Hillside Mining Company
41. Hobet Mining, LLC
42. Indian Hill Company LLC
43. Infinity Coal Sales, LLC
44. Interior Holdings, LLC
45. IO Coal LLC
46. Jarrell's Branch Coal Company
47. Jupiter Holdings LLC
48. Kanawha Eagle Coal, LLC
49. Kanawha River Ventures I, LLC
50. Kanawha River Ventures II, LLC
51. Kanawha River Ventures III, LLC
52. KE Ventures LLC
53. Little Creek LLC
54. Logan Fork Coal Company
55. Magnum Coal Company LLC
56. Magnum Coal Sales LLC
57. Martinka Coal Company, LLC
58. Midland Trail Energy LLC
59. Midwest Coal Resources II, LLC
60. Mountain View Coal Company, LLC
61. New Trout Coal Holdings II, LLC
62. Newtown Energy, Inc.
63. North Page Coal Corp.
64. Ohio County Coal Company, LLC
65. Panther LLC
66. Patriot Beaver Dam Holdings, LLC
67. Patriot Coal Company, L.P.
68. Patriot Coal Corporation
69. Patriot Coal Sales LLC
70. Patriot Coal Services LLC
71. Patriot Leasing Company LLC
72. Patriot Midwest Holdings, LLC
73. Patriot Reserve Holdings, LLC
74. Patriot Trading LLC
75. Patriot Ventures LLC
76. PCX Enterprises, Inc.
77. Pine Ridge Coal Company, LLC
78. Pond Creek Land Resources, LLC
79. Pond Fork Processing LLC
80. Remington Holdings LLC
81. Remington II LLC
82. Remington LLC
83. Rivers Edge Mining, Inc.
84. Robin Land Company, LLC
85. Sentry Mining, LLC
86. Snowberry Land Company
87. Speed Mining LLC
88. Sterling Smokeless Coal Company, LLC
89. TC Sales Company, LLC
90. The Presidents Energy Company LLC
91. Thunderhill Coal LLC
92. Trout Coal Holdings, LLC
93. Union County Coal Co., LLC
94. Viper LLC
95. Weatherby Processing LLC
96. Wildcat Energy LLC
97. Wildcat, LLC
98. Will Scarlet Properties LLC
99. Winchester LLC
100. Winifrede Dock Limited Liability Company
101. Yankeetown Dock, LLC

Exhibit 3

SECOND AMENDED AND RESTATED BY-LAWS OF PATRIOT COAL CORPORATION (As adopted and in effect on December 18, 2013)

ARTICLE I

MEETING OF STOCKHOLDERS

Section 1.1. Place of Meeting. Meetings of the stockholders of the Corporation shall be held at such place either within or without the State of Delaware as the Board of Directors may determine.

Section 1.2. Annual Meetings. (A) Unless directors are elected by written consent in lieu of an annual meeting as permitted by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended ("**Delaware Law**"), an annual meeting of stockholders, commencing with the year 2014, shall be held for the election of directors and to transact such other business as may properly be brought before the meeting. Stockholders may, unless the Corporation's Second Amended and Restated Certificate of Incorporation (as amended and restated from time to time, the "Charter") otherwise provides, act by written consent to elect directors; *provided*, *however*, that if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

Section 1.3. Special Meetings. Special meetings of stockholders may be called by the Chief Executive Officer, the Chairman of the Board or by the board of directors of the Corporation (the "Board of Directors") pursuant to a resolution approved by a majority of the then authorized number of directors and shall be called by the Secretary at the request in writing of holders of record of a majority of the outstanding voting power of the Corporation entitled to vote. Such request shall state the purpose or purposes of the proposed meeting.

Section 1.4. Notice of Meetings and Adjourned Meetings; Waivers of Notice. (A) Except as otherwise required by law, whenever stockholders are required or permitted to take any action at a meeting of stockholders, whether an annual meeting or a special meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by Delaware Law, such notice shall be given not less than 40 nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting. Unless these By-laws otherwise require, when a meeting is adjourned to another time or place (whether or not a quorum is present), notice need not be given of the adjourned meeting if the time, place, if any, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, are announced at

the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

(B) A written waiver of any such notice signed by the person entitled thereto, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 1.5. Nomination of Directors. Only persons who are nominated in accordance with the procedures set forth in these By-laws shall be eligible to serve as directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (a) by or at the direction of the Board of Directors, including as specified in the notice of meeting and any supplement thereto or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 1.5, who shall be entitled to vote for the election of directors at the meeting and who complies with the notice and delivery procedures set forth in this Section 1.5. Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which notice of the date of the meeting is first given by the Corporation. In no event shall the notice of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 1.5. Such stockholder's notice shall set forth

(A) as to each person whom the stockholder proposes to nominate for election as a director, all information relating to such person that is or would be required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Rule 14a-11 thereunder (and such person's written consent to being named as a nominee and to serving as a director if elected); and

(B) as to the stockholder giving the notice

(i) the name and address, as they appear on the Corporation's books, of such stockholder and

(ii) (a) the class or series and number of shares of the Corporation which are held of record or are beneficially owned by such stockholder and (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require, including the completion of any questionnaires, to determine the eligibility of such proposed nominee to serve as a director of the Corporation and the impact that such service would have on the ability of the Corporation to satisfy the requirements of laws, rules, regulations and listing standards applicable to the Corporation or its directors.

Section 1.6. Notice of Business. At any meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting (a) by or at the direction of the Board of Directors, including as specified in the notice of meeting and any supplement thereto or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of the notice provided for in this Section 1.6, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 1.6. For business to be properly brought before a stockholder meeting by a stockholder, the business must be a proper matter for stockholder action and the stockholder must have given timely notice thereof in writing to the secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which notice of the date of the meeting is first given by the Corporation. In no event shall the notice of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 1.6. A stockholder's notice shall set forth as to each matter the stockholder proposes to bring before the meeting

(A) a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and if such business includes a proposal to amend the By-laws of the Corporation, the text of the proposed amendment), and the reasons for conducting such business at the meeting and any material interest in such business of such stockholder;

(B) as to the stockholder giving the notice

(i) the name and address, as they appear on the Corporation's books, of such stockholder and

(ii) (a) the class or series and number of shares of the Corporation which are held of record or are beneficially owned by such stockholder and (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business.

The chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed in accordance with the procedures set forth in these Section 1.5 and Section 1.6, and if any proposed nomination or business is not in compliance with these Sections as applicable, to declare that such defective proposal or nomination shall be disregarded. Notwithstanding the foregoing provisions of these Section 1.5 and Section 1.6, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted,

notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of these Section 1.5 and Section 1.6, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

Section 1.7. Quorum. At any meeting of stockholders, the holders of record, present in person or by proxy, of a majority of the voting power of the Corporation's issued and outstanding capital stock and entitled to vote thereat shall constitute a quorum for the transaction of business, except as otherwise provided by applicable law. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. In the absence of a quorum, any officer entitled to preside at or to act as secretary of the meeting shall have the power to adjourn the meeting from time to time until a quorum is present.

Section 1.8. Voting. Except as otherwise provided by applicable law, these By-laws or by the Charter, (a) all matters submitted to a meeting of stockholders, other than the election of directors, shall be decided by vote of the holders of record of a majority of the voting power of the Corporation's issued and outstanding capital stock present in person or represented by proxy at the meeting and entitled to vote on the matter, (b) directors shall be elected by a plurality of the votes of the shares of the Corporation's issued and outstanding capital stock present in person or represented by proxy at the meeting and entitled to vote on the election of directors and (c) each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, appointed by an instrument in writing, subscribed by such stockholder or by his attorney thereunto authorized, or by proxy sent by cable, telegram or by any means of electronic communication permitted by law, which results in a writing from such stockholder or by his attorney, and delivered to the secretary of the meeting. No proxy shall be voted after three (3) years from its date, unless said proxy provides for a longer period.

Section 1.9 Action by Consent. (A) Unless otherwise provided in the Charter, any action required to be taken at any annual or special meeting of stockholders, or any action which may be taken at any annual or special meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding capital stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to

take the action were delivered to the Corporation as provided in subparagraph (B) of this Section 1.9.

(B) Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered in the manner required by this Section 1.9 and by applicable law to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested**.**

Section 1.10. General. (A) Only persons who are nominated in accordance with the procedures set forth in these By-Laws shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in these By-Laws. Except as otherwise provided by law, the Charter or these By-Laws, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in these By-Laws and, if any proposed nomination or business is not in compliance with these By-Laws, to declare that such defective nomination shall be disregarded or that such proposed business shall not be transacted.

(B) For purposes of these By-Laws, no adjournment nor notice of adjournment of any meeting shall be deemed to constitute a new notice of such meeting for purposes of this Article I, and in order for any notification required to be delivered by a stockholder pursuant to this Article I to be timely, such notification must be delivered within the periods set forth above with respect to the originally scheduled meeting. Subject to applicable law, the Board of Directors may elect to postpone any previously scheduled meeting of stockholders.

Section 1.11. List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible

electronic network, and the information required to access such list shall be provided with the notice of the meeting.

ARTICLE II

DIRECTORS

Section 2.1. Number, Election and Removal of Directors. The number of Directors that shall constitute the Board of Directors shall initially be five (5). Thereafter, within the limits specified in the Charter, the number of Directors shall be determined by the Board of Directors or by the stockholders. The Directors shall be elected by the stockholders at their annual meeting in the manner set forth in the Charter, except as provided in Section 1.2 and Section 2.9 herein, and each director so elected shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal. Directors may be removed with or without cause, at any time by the affirmative vote of at least 66 2/3 percent in voting power of all shares of the Corporation entitled to vote generally in the election of directors, voting as a single class and vacancies thus created may be filled in accordance with Section 2.9 herein.

Section 2.2. Regular Meetings. After the place and time of regular meetings of the Board of Directors shall have been determined and notice thereof shall have been once given to each member of the Board of Directors, regular meetings may be held without further notice being given.

Section 2.3 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board or the President and shall be called by the Chairman of the Board, President or Secretary on the written request of three directors. Notice of special meetings of the Board of Directors shall be given to each director at least three days before the date of the meeting in such manner as is determined by the Board of Directors. A meeting of the Board of Directors may be held without notice immediately after the annual meeting of the stockholders.

Section 2.4. Quorum. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board of Directors, the Directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until such a quorum is present. Except as otherwise provided by applicable law, the Charter, these By-Laws or any contract or agreement to which the Corporation is a party, the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors.

Section 2.5. Committees of Directors. The Board of Directors may, by resolution adopted by a majority of the entire Board, designate one or more committees, including without limitation an Executive Committee, to have and exercise such power and authority as the Board of Directors shall specify. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another Director to act at the meeting in place of any such absent or disqualified member.

Section 2.6. Actions without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or a committee thereof may be taken without a meeting if all the members of the board or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the records of the meetings of the board or of such committee. Such consent shall be treated for all purposes as the act of the board or of such committee, as the case may be.

Section 2.7. Participation in Meetings by Conference Telephone. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of such board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other or by any other means permitted by law. Such participation shall constitute presence in person at such meeting.

Section 2.8. Resignation. Any director may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the Secretary of the Corporation. The resignation of any director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective

Section 2.9. Vacancies. Unless otherwise required by law or provided in the Charter, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all the stockholders having the right to vote as a single class may be filled by (i) a majority of the directors then in office, although less than a quorum, or by a sole remaining director, or (ii) by the affirmative vote or written consent of the holders of a majority of voting power of the outstanding capital stock of the Corporation then entitled to vote at any election of directors. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the Charter, vacancies and newly created directorships of such class or classes or series may be filled by a majority of directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Each director so chosen shall hold office until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal. If there are no directors in office, then an election of directors may be held in accordance with the law. Unless otherwise provided in the Charter, when one or more directors shall resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in the filling of other vacancies.

Section 2.10. Compensation. In the discretion of the Board of Directors, each director may be paid such fees for his or her services as director (including as a member of one or more committees of the Board of Directors) and be reimbursed for his or her reasonable expenses incurred in the performance of his or her duties as director as the board of directors from time to time may determine. Nothing contained in this Section 2.10 shall be construed to preclude any director from serving the Corporation in any other capacity and receiving reasonable compensation therefor.

Section 2.11. Reliance Upon Books and Records. A member of the Board of Directors, or a member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers, employees, agents, committees, or by any other person as to matters the member reasonably believes are within such other person's or persons' professional or expert competence, and who has been selected with reasonable care by or on behalf of the Corporation.

ARTICLE III

CHAIRMAN OF THE BOARD AND OFFICERS

Section 3.1. Chairman of the Board. The Board of Directors shall elect from time to time one of its own members as the Chairman of the Board of Directors (the "Chairman"). The Chairman may also be the Chief Executive Officer or other officer of the Corporation. The Chairman shall preside at the meetings of the Board and may call meetings of the Board and any committee thereof, whenever he deems necessary, and he shall call to order and preside at all meetings of the stockholders of the Corporation. In addition, he shall have such other powers and duties as the Board shall designate from time to time.

Section 3.2. Principal Officers. The principal officers of the Corporation shall consist of a Chief Executive Officer, a President, one or more Executive Vice Presidents, a Secretary, a Treasurer and such other additional officers with such titles (including, without limitation, a Chief Operating Officer and a Chief Financial Officer) as the Board of Directors shall from time to time determine, all of whom shall be elected by and shall serve at the pleasure of the Board of Directors. Subject to applicable law, an officer may hold more than one office, if so elected by the Board of Directors. Such officers shall have the usual powers and shall perform all the usual duties incident to their respective offices. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors. All officers shall be subject to the supervision and direction of the Board of Directors. The Board of Directors may from time to time elect, or the Chief Executive Officer or President may appoint, such other officers (including one or more Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, Assistant Treasurers, and Assistant Controllers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as may be prescribed by the Board of Directors or by the Chief Executive Officer or President, as the case may be. The officers of the Corporation need not be stockholders of the Corporation nor need such officers be directors of the Corporation.

Section 3.3. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after the annual meeting of stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign, but any officer may be removed from office at any time as provided in Section 3.4.

Section 3.4. Removal. Any officer elected, or agent appointed, by the Board of Directors may be removed by resolution adopted by the Board of Directors whenever, in their judgment, the best interests of the Corporation would be served thereby. Any officer or agent appointed by the Chief Executive Officer or the President may be removed by the Chief Executive Officer or the President, as the case may be, whenever, in such officer's judgment, the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed; *provided* that no elected officer shall have any contractual rights against the Corporation for compensation beyond the date of the election of his successor, his death, his resignation or his removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

Section 3.5. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors (or to a principal officer if the Board of Directors has delegated to such principal officer the power to appoint and to remove such officer). The resignation of any officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.6. Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors for the unexpired portion of the term at any meeting of the Board of Directors. Any vacancy in an office appointed by the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chief Executive Officer or the President.

ARTICLE IV

INDEMNIFICATION

Section 4.1. Mandatory Indemnification. The Corporation shall indemnify any person (and such person's heirs, executors or administrators) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding (brought in the right of the Corporation or otherwise), whether civil, criminal, administrative or investigative, and whether formal or informal, including appeals, by reason of the fact that such person is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was, serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, limited liability company or other enterprise, for and against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or such heirs, executors or administrators in connection with such action, suit or proceeding, including appeals. The Corporation shall promptly pay expenses incurred by any person described in this Section 4.1 in defending any action, suit or proceeding in advance of the final disposition of such action, suit or proceeding, including appeals, upon presentation of appropriate documentation. Notwithstanding the preceding sentences, the Corporation shall be required to indemnify a person described in such sentences who was not a director or officer of the Corporation as of December 18, 2013 only to the extent that the events precipitating any action, suit or proceeding occurred after July 9, 2012, and the Corporation shall be required to indemnify a person described in such sentences in connection with any action, suit or proceeding (or part thereof) commenced by such person

only if the commencement of such action, suit or proceeding (or part thereof) by such person was authorized by the Board of Directors of the Corporation.

Section 4.2. Permissive Indemnification. The Corporation may, by action of its Board of Directors, provide indemnification to such of the employees and agents, or with respect to an event occurring on or before July 9, 2012 to such of the former directors or officers, of the Corporation to such extent and to such effect as the Board of Directors shall determine to be appropriate and authorized by the laws of the State of Delaware; *provided* that, for each such former director or officer or current or former employee or agent, the Corporation may indemnify such persons only to the extent of available coverage under an applicable insurance policy (and payable from the proceeds of such insurance policy), unless otherwise required by the laws of the State of Delaware.

Section 4.3. General. The provisions of this Article IV shall be applicable to all actions, claims, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after its adoption. The provisions of this Article IV shall be deemed to be a contract between the Corporation and each director or officer who serves in such capacity at any time while this Article IV and the relevant provisions of the laws of the State of Delaware and other applicable law, if any, are in effect, and any repeal or modification hereof shall not affect any rights or obligations then existing with respect to any state of facts or any action, suit or proceeding then or theretofore existing, or any action, suit or proceeding thereafter brought or threatened based in whole or in part on any such state of facts. If any provision of this Article IV shall be found to be invalid or limited in application by reason of any law or regulation, it shall not affect the validity of the remaining provisions hereof. The rights of indemnification provided in this Article IV shall neither be exclusive of, nor be deemed in limitation of, any rights to which an officer, director, employee or agent may otherwise be entitled or permitted by contract, these By-laws, the Charter, vote of stockholders or directors or otherwise, or as a matter of law, both as to actions in such person's official capacity and actions in any other capacity while holding such office. For purposes of this Article IV references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries.

ARTICLE V

GENERAL PROVISIONS

Section 5.1. Fixing the Record Date. (A) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for

determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided* that the Board of Directors may fix a new record date for the adjourned meeting.

(B) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by Delaware Law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by Delaware Law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(C) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5.2. Dividends. Subject to limitations contained in applicable law and the Charter, the Board of Directors may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

Section 5.3. Notices. Whenever any statute, the Charter or these By-Laws require notice to be given to any Director or stockholder, such notice may be given in writing by mail, addressed to such Director or stockholder at his address as it appears on the records of the Corporation, with postage thereon prepaid. Such notice shall be deemed to have been given when it is deposited in the United States mail. Notice to Directors may also be given by telefax or e-mail.

Section 5.4. Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board of Directors.

Section 5.5. Amendment. Except as otherwise provided in the Charter, these By-Laws may be adopted, amended or repealed by resolution of the Board of Directors or by vote of 66 2/3 percent of the voting power of the stock outstanding and entitled to vote, voting as a single class.

Comparison

SECOND AMENDED AND RESTATED BY-LAWS OF PATRIOT COAL CORPORATION (As adopted and in effect on December 18, 2013)

ARTICLE I

MEETING OF STOCKHOLDERS

Section 1.1. Place of Meeting. Meetings of the stockholders of the Corporation shall be held at such place either within or without the State of Delaware as the Board of Directors may determine.

Section 1.2. Annual Meetings. (A) Unless directors are elected by written consent in lieu of an annual meeting as permitted by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended ("**Delaware Law**"), an annual meeting of stockholders, commencing with the year 2014, shall be held for the election of directors and to transact such other business as may properly be brought before the meeting. Stockholders may, unless the Corporation's Second Amended and Restated Certificate of Incorporation (as amended and restated from time to time, the "Charter") otherwise provides, act by written consent to elect directors; *provided, however*, that if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

Section 1.3. Special Meetings. Special meetings of stockholders may be called by the Chief Executive Officer, the Chairman of the Board or by the board of directors of the Corporation (the "Board of Directors") pursuant to a resolution approved by a majority of the then authorized number of directors and shall be called by the Secretary at the request in writing of holders of record of a majority of the outstanding voting power of the Corporation entitled to vote. Such request shall state the purpose or purposes of the proposed meeting.

Section 1.4. Notice of Meetings and Adjourned Meetings; Waivers of Notice. (A) Except as otherwise required by law, whenever stockholders are required or permitted to take any action at a meeting of stockholders, whether an annual meeting or a special meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by Delaware Law, such notice shall be given not less than 40 nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting. Unless these By-laws otherwise require, when a meeting is adjourned to another time or place (whether or not a quorum is present), notice need not be given of the adjourned meeting if the time, place, if any, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, are

announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

(B) A written waiver of any such notice signed by the person entitled thereto, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 1.5. Nomination of Directors. Only persons who are nominated in accordance with the procedures set forth in these By-laws shall be eligible to serve as directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (a) by or at the direction of the Board of Directors, including as specified in the notice of meeting and any supplement thereto or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 1.5, who shall be entitled to vote for the election of directors at the meeting and who complies with the notice and delivery procedures set forth in this Section 1.5. Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which notice of the date of the meeting is first given by the Corporation. In no event shall the notice of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 1.5. Such stockholder's notice shall set forth

(A) as to each person whom the stockholder proposes to nominate for election as a director, all information relating to such person that is or would be required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Rule 14a-11 thereunder (and such person's written consent to being named as a nominee and to serving as a director if elected); and

(B) as to the stockholder giving the notice

(i) the name and address, as they appear on the Corporation's books, of such stockholder and

(ii) (a) the class or series and number of shares of the Corporation which are held of record or are beneficially owned by such stockholder and (b) a representation that the stockholder is a holder of record of stock of the

Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require, including the completion of any questionnaires, to determine the eligibility of such proposed nominee to serve as a director of the Corporation and the impact that such service would have on the ability of the Corporation to satisfy the requirements of laws, rules, regulations and listing standards applicable to the Corporation or its directors.

Section 1.6. Notice of Business. At any meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting (a) by or at the direction of the Board of Directors, including as specified in the notice of meeting and any supplement thereto or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of the notice provided for in this Section 1.6, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Section 1.6. For business to be properly brought before a stockholder meeting by a stockholder, the business must be a proper matter for stockholder action and the stockholder must have given timely notice thereof in writing to the secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which notice of the date of the meeting is first given by the Corporation. In no event shall the notice of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 1.6. A stockholder's notice shall set forth as to each matter the stockholder proposes to bring before the meeting

(A) a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and if such business includes a proposal to amend the By-laws of the Corporation, the text of the proposed amendment), and the reasons for conducting such business at the meeting and any material interest in such business of such stockholder;

(B) as to the stockholder giving the notice

(i) the name and address, as they appear on the Corporation's books, of such stockholder and

(ii) (a) the class or series and number of shares of the Corporation which are held of record or are beneficially owned by such stockholder and (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business.

The chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed in accordance with the procedures set forth in these Section 1.5 and Section 1.6, and if any proposed nomination or business is not in compliance with these Sections as applicable, to

declare that such defective proposal or nomination shall be disregarded. Notwithstanding the foregoing provisions of these Section 1.5 and Section 1.6, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of these Section 1.5 and Section 1.6, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

Section 1.7. Quorum. At any meeting of stockholders, the holders of record, present in person or by proxy, of a majority of the voting power of the Corporation's issued and outstanding capital stock and entitled to vote thereat shall constitute a quorum for the transaction of business, except as otherwise provided by applicable law. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. In the absence of a quorum, any officer entitled to preside at or to act as secretary of the meeting shall have the power to adjourn the meeting from time to time until a quorum is present.

Section 1.8. Voting. Except as otherwise provided by applicable law, these By-laws or by the Charter, (a) all matters submitted to a meeting of stockholders, other than the election of directors, shall be decided by vote of the holders of record of a majority of the voting power of the Corporation's issued and outstanding capital stock present in person or represented by proxy at the meeting and entitled to vote on the matter, (b) directors shall be elected by a plurality of the votes of the shares of the Corporation's issued and outstanding capital stock present in person or represented by proxy at the meeting and entitled to vote on the election of directors and (c) each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, appointed by an instrument in writing, subscribed by such stockholder or by his attorney thereunto authorized, or by proxy sent by cable, telegram or by any means of electronic communication permitted by law, which results in a writing from such stockholder or by his attorney, and delivered to the secretary of the meeting. No proxy shall be voted after three (3) years from its date, unless said proxy provides for a longer period.

Section 1.9 Action by Consent. (A) Unless otherwise provided in the Charter, any action required to be taken at any annual or special meeting of stockholders, or any action which may be taken at any annual or special meeting of stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding capital stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in Delaware, its

principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take the action were delivered to the Corporation as provided in subparagraph (B) of this Section 1.9.

(B) Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered in the manner required by this Section 1.9 and by applicable law to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested**.**

Section 1.10. General. (A) Only persons who are nominated in accordance with the procedures set forth in these By-Laws shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in these By-Laws. Except as otherwise provided by law, the Charter or these By-Laws, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in these By-Laws and, if any proposed nomination or business is not in compliance with these By-Laws, to declare that such defective nomination shall be disregarded or that such proposed business shall not be transacted.

(B) For purposes of these By-Laws, no adjournment nor notice of adjournment of any meeting shall be deemed to constitute a new notice of such meeting for purposes of this Article I, and in order for any notification required to be delivered by a stockholder pursuant to this Article I to be timely, such notification must be delivered within the periods set forth above with respect to the originally scheduled meeting. Subject to applicable law, the Board of Directors may elect to postpone any previously scheduled meeting of stockholders.

Section 1.11. List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation

determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

ARTICLE II

DIRECTORS

Section 2.1. Number, Election and Removal of Directors. The number of Directors that shall constitute the Board of Directors shall initially be five (5). Thereafter, within the limits specified in the Charter, the number of Directors shall be determined by the Board of Directors or by the stockholders. The Directors shall be elected by the stockholders at their annual meeting in the manner set forth in the Charter, except as provided in Section 1.2 and Section 2.9 herein, and each director so elected shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal. Directors may be removed with or without cause, at any time by the affirmative vote of at least 66 2/3 percent in voting power of all shares of the Corporation entitled to vote generally in the election of directors, voting as a single class and vacancies thus created may be filled in accordance with Section 2.9 herein.

Section 2.2. Regular Meetings. After the place and time of regular meetings of the Board of Directors shall have been determined and notice thereof shall have been once given to each member of the Board of Directors, regular meetings may be held without further notice being given.

Section 2.3 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board or the President and shall be called by the Chairman of the Board, President or Secretary on the written request of three directors. Notice of special meetings of the Board of Directors shall be given to each director at least three days before the date of the meeting in such manner as is determined by the Board of Directors. A meeting of the Board of Directors may be held without notice immediately after the annual meeting of the stockholders.

Section 2.4. Quorum. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board of Directors, the Directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until such a quorum is present. Except as otherwise provided by applicable law, the Charter, these By-Laws or any contract or agreement to which the Corporation is a party, the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors.

Section 2.5. Committees of Directors. The Board of Directors may, by resolution adopted by a majority of the entire Board, designate one or more committees, including

without limitation an Executive Committee, to have and exercise such power and authority as the Board of Directors shall specify. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another Director to act at the meeting in place of any such absent or disqualified member.

Section 2.6. Actions without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or a committee thereof may be taken without a meeting if all the members of the board or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the records of the meetings of the board or of such committee. Such consent shall be treated for all purposes as the act of the board or of such committee, as the case may be.

Section 2.7. Participation in Meetings by Conference Telephone. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of such board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other or by any other means permitted by law. Such participation shall constitute presence in person at such meeting.

Section 2.8. Resignation. Any director may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the Secretary of the Corporation. The resignation of any director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective

Section 2.9. Vacancies. Unless otherwise required by law or provided in the Charter, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all the stockholders having the right to vote as a single class may be filled by (i) a majority of the directors then in office, although less than a quorum, or by a sole remaining director, or (ii) by the affirmative vote or written consent of the holders of a majority of voting power of the outstanding capital stock of the Corporation then entitled to vote at any election of directors. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the Charter, vacancies and newly created directorships of such class or classes or series may be filled by a majority of directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Each director so chosen shall hold office until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal. If there are no directors in office, then an election of directors may be held in accordance with the law. Unless otherwise provided in the Charter, when one or more directors shall resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in the filling of other vacancies.

Section 2.10. Compensation. In the discretion of the Board of Directors, each director may be paid such fees for his or her services as director (including as a member of one or

more committees of the Board of Directors) and be reimbursed for his or her reasonable expenses incurred in the performance of his or her duties as director as the board of directors from time to time may determine. Nothing contained in this Section 2.10 shall be construed to preclude any director from serving the Corporation in any other capacity and receiving reasonable compensation therefor.

Section 2.11. Reliance Upon Books and Records. A member of the Board of Directors, or a member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers, employees, agents, committees, or by any other person as to matters the member reasonably believes are within such other person's or persons' professional or expert competence, and who has been selected with reasonable care by or on behalf of the Corporation.

ARTICLE III

CHAIRMAN OF THE BOARD AND OFFICERS

Section 3.1. Chairman of the Board. The Board of Directors shall elect from time to time one of its own members as the Chairman of the Board of Directors (the "Chairman"). The Chairman may also be the Chief Executive Officer or other officer of the Corporation. The Chairman shall preside at the meetings of the Board and may call meetings of the Board and any committee thereof, whenever he deems necessary, and he shall call to order and preside at all meetings of the stockholders of the Corporation. In addition, he shall have such other powers and duties as the Board shall designate from time to time.

Section 3.2. Principal Officers. The principal officers of the Corporation shall consist of a Chief Executive Officer, a President, one or more Executive ~~Vice Presidents, one or more Senior~~ Vice Presidents, a Secretary, a Treasurer and such other additional officers with such titles (including, without limitation, a Chief Operating Officer and a Chief Financial Officer) as the Board of Directors shall from time to time determine, all of whom shall be elected by and shall serve at the pleasure of the Board of Directors. Subject to applicable law, an officer may hold more than one office, if so elected by the Board of Directors. Such officers shall have the usual powers and shall perform all the usual duties incident to their respective offices. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors. All officers shall be subject to the supervision and direction of the Board of Directors. The Board of Directors may from time to time elect, or the Chief Executive Officer or President may appoint, such other officers (including one or more Senior Vice Presidents, Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, Assistant Treasurers, and Assistant Controllers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as may be prescribed by the Board of Directors or by the Chief Executive Officer or President, as the case may be. The officers of the Corporation need not be stockholders of the Corporation nor need such officers be directors of the Corporation.

Section 3.3. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after the annual meeting of stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign, but any officer may be removed from office at any time as provided in Section 3.4.

Section 3.4. Removal. Any officer elected, or agent appointed, by the Board of Directors may be removed by resolution adopted by the Board of Directors whenever, in their judgment, the best interests of the Corporation would be served thereby. Any officer or agent appointed by the Chief Executive Officer or the President may be removed by the Chief Executive Officer or the President, as the case may be, whenever, in such officer's judgment, the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed; *provided* that no elected officer shall have any contractual rights against the Corporation for compensation beyond the date of the election of his successor, his death, his resignation or his removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

Section 3.5. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors (or to a principal officer if the Board of Directors has delegated to such principal officer the power to appoint and to remove such officer). The resignation of any officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.6. Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors for the unexpired portion of the term at any meeting of the Board of Directors. Any vacancy in an office appointed by the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chief Executive Officer or the President.

ARTICLE IV

INDEMNIFICATION

Section 4.1. Mandatory Indemnification. The Corporation shall indemnify any person (and such person's heirs, executors or administrators) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding (brought in the right of the Corporation or otherwise), whether civil, criminal, administrative or investigative, and whether formal or informal, including appeals, by reason of the fact that such person is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was, serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, limited liability company or other enterprise, for and against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or such heirs, executors or administrators in connection with such action, suit or

proceeding, including appeals. The Corporation shall promptly pay expenses incurred by any person described in this Section 4.1 in defending any action, suit or proceeding in advance of the final disposition of such action, suit or proceeding, including appeals, upon presentation of appropriate documentation. Notwithstanding the preceding sentences, the Corporation shall be required to indemnify a person described in such sentences who was not a director or officer of the Corporation as of December 18, 2013 only to the extent that the events precipitating any action, suit or proceeding occurred after July 9, 2012, and the Corporation shall be required to indemnify a person described in such sentences in connection with any action, suit or proceeding (or part thereof) commenced by such person only if the commencement of such action, suit or proceeding (or part thereof) by such person was authorized by the Board of Directors of the Corporation.

Section 4.2. Permissive Indemnification. The Corporation may, by action of its Board of Directors, provide indemnification to such of the employees and agents, or with respect to an event occurring on or before July 9, 2012 to such of the former directors or officers, of the Corporation to such extent and to such effect as the Board of Directors shall determine to be appropriate and authorized by the laws of the State of Delaware; *provided* that, for each such former director or officer or current or former employee or agent, the Corporation may indemnify such persons only to the extent of available coverage under an applicable insurance policy (and payable from the proceeds of such insurance policy), unless otherwise required by the laws of the State of Delaware.

Section 4.3. General. The provisions of this Article IV shall be applicable to all actions, claims, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after its adoption. The provisions of this Article IV shall be deemed to be a contract between the Corporation and each director or officer who serves in such capacity at any time while this Article IV and the relevant provisions of the laws of the State of Delaware and other applicable law, if any, are in effect, and any repeal or modification hereof shall not affect any rights or obligations then existing with respect to any state of facts or any action, suit or proceeding then or theretofore existing, or any action, suit or proceeding thereafter brought or threatened based in whole or in part on any such state of facts. If any provision of this Article IV shall be found to be invalid or limited in application by reason of any law or regulation, it shall not affect the validity of the remaining provisions hereof. The rights of indemnification provided in this Article IV shall neither be exclusive of, nor be deemed in limitation of, any rights to which an officer, director, employee or agent may otherwise be entitled or permitted by contract, these By-laws, the Charter, vote of stockholders or directors or otherwise, or as a matter of law, both as to actions in such person's official capacity and actions in any other capacity while holding such office. For purposes of this Article IV references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries.

ARTICLE V

GENERAL PROVISIONS

Section 5.1. Fixing the Record Date. (A) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided* that the Board of Directors may fix a new record date for the adjourned meeting.

(B) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by Delaware Law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by Delaware Law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(C) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5.2. Dividends. Subject to limitations contained in applicable law and the Charter, the Board of Directors may declare and pay dividends upon the shares of capital stock

of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

Section 5.3. Notices. Whenever any statute, the Charter or these By-Laws require notice to be given to any Director or stockholder, such notice may be given in writing by mail, addressed to such Director or stockholder at his address as it appears on the records of the Corporation, with postage thereon prepaid. Such notice shall be deemed to have been given when it is deposited in the United States mail. Notice to Directors may also be given by telefax or e-mail.

Section 5.4. Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board of Directors.

Section 5.5. Amendment. Except as otherwise provided in the Charter, these By-Laws may be adopted, amended or repealed by resolution of the Board of Directors or by vote of 66 2/3 percent of the voting power of the stock outstanding and entitled to vote, voting as a single class.

Exhibit 4

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

INDENTURE

Dated as of December 18, 2013

among

PATRIOT COAL CORPORATION,
as ISSUER,

THE SUBSIDIARIES PARTY HERETO,
as GUARANTORS,

and

U.S. BANK NATIONAL ASSOCIATION,
as TRUSTEE

TRUST INDENTURE ACT OF 1939, AS AMENDED ("TIA")
CROSS-REFERENCE TABLE

TIA	Section	Indenture Section
310	(a)(1)	Section 7.10
	(a)(2)	Section 7.10
	(a)(3)	N.A.
	(a)(4)	N.A.
	(a)(5)	N.A.
	(b)	Section 7.08, Section 7.10
	(c)	N.A.
311	(a)	Section 7.11
	(b)	Section 7.11
	(c)	N.A.
312	(a)	Section 2.05
	(b)	Section 12.03
	(c)	Section 12.03
313	(a)	Section 7.06
	(b)(1)	Section 7.06
	(b)(2)	Section 7.06
	(c)	Section 7.06
	(d)	Section 7.06
314	(a)	Section 4.02, Section 4.03
	(b)	Section 11.05
	(c)(1)	Section 11.05, Section 12.04
	(c)(2)	Section 11.05, Section 12.04
	(c)(3)	Section 11.05
	(d)	Section 11.05
	(e)	Section 12.05
	(f)	N.A.
315	(a)	Section 7.01(b)
	(b)	Section 7.05
	(c)	Section 7.01
	(d)	Section 7.01(c)
	(e)	Section 6.11
316	(a)(1)(A)	Section 6.05
	(a)(1)(B)	Section 6.04
	(a)(2)	N.A.
	(b)	Section 6.07
	(c)	Section 1.05(e)
317	(a)(1)	Section 6.08
	(a)(2)	Section 6.09
	(b)	Section 2.04
318	(a)	Section 12.01

N.A. means not applicable.

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be a part of this Indenture.

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INDENTURE, dated as of December 18, 2013, among PATRIOT COAL CORPORATION, a Delaware corporation, as issuer (the "Company"), certain of the Company's Domestic Subsidiaries from time to time party hereto, as guarantors, and U.S. BANK NATIONAL ASSOCIATION, as trustee (together with its successors and assigns, in such capacity, the "Trustee").

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Company's 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023:

ARTICLE I
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

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

"ABL Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"ABL Credit Agreement" means that (i) certain Credit Agreement dated as of the Issue Date by and among the Company, as the parent borrower, certain of its Subsidiaries party thereto as co-borrowers, certain of its Subsidiaries as guarantors party thereto, the lenders and other Persons party thereto from time and time and Deutsche Bank AG New York Branch, as administrative agent, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, (ii) any other ABL Credit Agreement (as defined in the Junior Lien Intercreditor Agreement) and (iii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and so long as such Indebtedness is otherwise permitted under Section 4.10(b)(ii) hereof.

"ABL Bank Product Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"ABL Hedging Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Acceleration Premium" shall mean, in connection with any accelerated payment of any of the Securities pursuant to Article VI of this Indenture or the Securities, the aggregate present value as of the date of such accelerated payment of the amount of unpaid interest (exclusive of interest that has been accrued to the date of such accelerated payment, but inclusive of any interest that would have become payable on PIK Securities or on any increased principal amount of Securities as a result of the payment of PIK Interest if such accelerated payment had not been

made) that would have been payable in respect of the principal amount of the Securities (including any PIK Securities or any increase in the principal amount of the Securities as a result of the payment of PIK Interest), then outstanding, with the present value determined by discounting, on a semi-annual basis, such interest at the Reinvestment Rate (determined on the third Business Day preceding the date such declaration of acceleration is made) from the respective dates on which such interest payments would have been payable if such accelerated payment had not been made.

"Accredited Investor" means an entity or natural person that is an "accredited investor" as defined in Rule 501(a) under the Securities Act, who is not also a QIB.

"Accredited Investor Global Security" means the global security substantially in the form of Exhibit A hereto bearing the Global Security Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Securities sold to Accredited Investors.

"Acquired Indebtedness" means, with respect to any specified Person:

(1) Indebtedness of a Person existing at the time the Person is acquired by, or merges with or into, the Company or any Restricted Subsidiary or becomes a Restricted Subsidiary, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Additional Assets" means all or substantially all of the assets of a Permitted Business, or Voting Stock of another Person engaged in a Permitted Business that will, on the date of acquisition, be a Restricted Subsidiary, or other assets (other than cash and Cash Equivalents, securities (including Equity Interests) or assets classified as current assets under GAAP) that are to be used in a Permitted Business of the Company or one or more of its Restricted Subsidiaries.

"Additional Securities" means Securities (other than the Initial Securities) issued under this Indenture in accordance with Section 2.02 and Section 4.10 hereof, as part of the same series as the Initial Securities.

"Adjusted Net Assets" of a Guarantor at any date means the amount by which the fair value of the assets and other property of such Guarantor exceeds the total amount of liabilities, including, without limitation, contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under its Guarantee, of such Guarantor at such date.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "Control" when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities or by contract; and the terms "Controlling" and "Controlled" have meanings correlative to the foregoing. Solely

for purposes of Section 2.08, no Person will be deemed to "Control" another Person solely by virtue of their ownership of less than 35 percent of the voting power of the voting securities of such other Person or by virtue of their ownership of nonvoting securities convertible into the voting securities of such other Person.

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

"Arch Settlement Documents" means, collectively, (a) the Settlement Agreement, dated October 23, 2013, by and among the Company, the Subsidiaries of the Company party thereto and Arch Coal, Inc, as amended, restated, supplemented or otherwise modified from time to time (the "Arch Settlement Agreement"), (b) the Surety Agreement, dated November 27, 2012, by and among Arch Coal, Inc., Magnum Coal Company LLC and the Company, as amended pursuant to the Arch Settlement Agreement, and (c) each other Settlement Document (under and as defined in the Arch Settlement Agreement), in each case, as has been or is hereafter amended, restated, supplemented or otherwise modified from time to time.

"Asset Sale" means any sale, lease (other than Capital Leases), transfer or other disposition of any assets by the Company or any Restricted Subsidiary, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Restricted Subsidiary but not of the Company (each of the above referred to as a "disposition").

Notwithstanding the preceding, the following items shall not be deemed to be Asset Sales:

(1) a disposition to the Company or a Restricted Subsidiary that is a Guarantor, including the sale or issuance by the Company or any Restricted Subsidiary of any Equity Interests of any Restricted Subsidiary, to the Company or any Restricted Subsidiary that is a Guarantor;

(2) the sale or discount of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(3) operating leases (other than Sale and Leaseback Transactions) entered into in the ordinary course of a mining business;

(4) a transaction covered by Section 5.01;

(5) a Restricted Payment permitted under Section 4.11 or a Permitted Investment;

(6) any transfer of property or assets that consists of grants by the Company or its Restricted Subsidiaries in the ordinary course of business of assignments, licenses or sub-licenses, including with respect to intellectual property rights;

(7) the sale, lease or sublease by the Company and its Restricted Subsidiaries of real property solely to the extent that such real property is not necessary for the normal conduct of operations of the Company and its Restricted Subsidiaries;

(8) the granting of a Lien permitted under the terms hereof or the foreclosure of assets of the Company or any of its Restricted Subsidiaries to the extent not constituting a Default;

(9) the sale or other disposition of cash or Cash Equivalents;

(10) the unwinding of any Hedging Agreements;

(11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;

(12) the issuance of Disqualified Stock or Preferred Stock of a Restricted Subsidiary pursuant to Section 4.10 hereof;

(13) (a) the sale of used, damaged, obsolete, unusable, surplus or worn out equipment or equipment that is no longer needed in the conduct of the business of the Company and its Restricted Subsidiaries, (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines or (c) the abandonment or allowance to lapse or expire or other disposition of intellectual property by the Company and its Restricted Subsidiaries in the ordinary course of business;

(14) the sale of equipment to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such sale are reasonably promptly applied to the purchase price of such replacement property;

(15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than $5,000,000;

(16) the sale of Equity Interests of an Unrestricted Subsidiary;

(17) any Permitted Land Swap or any other dispositions of assets by virtue of an asset exchange or swap with a third party in any transaction (x) with an aggregate fair market value less than or equal to $12,500,000, (y) involving a coal-for-coal swap or (z) consisting of a coal swap involving any Real Property;

(18) so long as no Default shall occur and be continuing, the grant of any option or other right to purchase any asset in a transaction that would be otherwise not deemed an Asset Sale under this definition of Asset Sale;

(19) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangement between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements; and

(20) Disposition of the South Guffey Reserve as provided for in the Arch Settlement Documents.

"Attributable Indebtedness" means, at any date, in respect of Capital Leases of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared in accordance with GAAP.

"Backstop Agreement" means the Backstop Rights Purchase Agreement, dated as of November 4, 2013, by and among the Company, the other entities set forth in Schedule 1 thereto, each of the signatories thereto and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees set forth on the signature pages thereto, and each Person executing a joinder thereto substantially in the form of Exhibit A thereto, as such agreement may be amended, supplemented or otherwise modified.

"Backstop Parties" means Davidson Kempner Capital Management LLC, on behalf of certain funds and accounts it manages and/or advises, and Knighthead Capital Management, LLC, on behalf of certain funds and accounts it manages and/or advises.

"Bank Indebtedness" means any and all amounts payable under or in respect of the ABL Credit Agreement, the LC/Term Credit Agreement and the other Credit Agreement Documents as amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of any of the ABL Credit Agreement and the LC/Term Credit Agreement), including principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company whether or not a claim for post-filing interest is allowed in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect thereof.

"Bankruptcy Code" means the Bankruptcy Reform Act of 1978, as amended.

"Bankruptcy Court" means the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division.

"Bankruptcy Proceedings" means the reorganization proceedings of the Company and certain of its Subsidiaries, as debtors, under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

"Board of Directors" means:

(1) with respect to the Company, its board of directors; and

(2) with respect to any other Person, (i) if the Person is a corporation, the board of directors of the corporation, (ii) if the Person is a partnership, the Board of Directors of the general partner of the partnership and (iii) with respect to any other Person, the board, committee or members of such Person serving a similar function.

"Board Resolution" means a copy of one or more resolutions, certified by an Officer of the Company to have been duly adopted or consented to by the Board of Directors and to be in full force and effect, and delivered to the Trustee.

"Business Day" means a day, other than a Saturday or Sunday, that in The City of New York or at a place of payment is not a day on which banking institutions are authorized or required by law, regulation or executive order to close.

"Capital Expenditures" has the meaning set forth in the ABL Credit Agreement, as in effect on the Issue Date.

"Capital Lease" means, with respect to any Person, any lease of any property which, in conformity with GAAP, is required to be capitalized on the balance sheet of such Person *provided* that, for the avoidance of doubt, any obligations relating to a lease that was accounted for by such Person as an operating lease as of the Issue Date and any similar lease entered into after the Issue Date by such Person shall be accounted for as an operating lease and not a Capital Lease.

"Capital Lease Obligations" means of any Person as of the date of determination, the aggregate liability of such Person under Capital Leases reflected on a balance sheet of such Person under GAAP.

"Capital Stock" means:

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

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

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

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person;

provided, however, that all convertible Indebtedness shall be deemed Indebtedness, and not Capital Stock, unless and until the applicable part of any such Indebtedness is converted into Capital Stock.

"Cash Equivalents" means:

(1) United States dollars, or money in other currencies;

(2) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;

(3) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of one year or less from the date of acquisition, (iii) bankers' acceptances with maturities not exceeding one year from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital,

surplus and undivided profits in excess of $500,000,000 (or the foreign currency equivalent thereof) whose short-term debt is rated "A-2" or higher by S&P or "P-2" or higher by Moody's;

(4) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody's;

(5) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case with an Investment Grade Rating by S&P or Moody's with maturities not exceeding one year from the date of acquisition;

(6) investment funds substantially all of the assets of which consist of investments of the type described in clauses (1) through (5) above; and

(7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (2) above and entered into with a financial institution satisfying the criteria described in clause (3) above.

"Certificated Securities" means Securities that are issued in definitive form in the form of the Securities attached hereto as Exhibit A.

"Change of Control" means the occurrence of either of the following:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Company and its Subsidiaries, taken as a whole, to any Person;

(2) prior to an Initial Public Offering, the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any "person" or "group" (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than a Permitted Holder, including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the Voting Stock of the Company;

(3) after an Initial Public Offering, the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any "person" or "group" (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than a Permitted Holder, including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business

combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 35% of the total voting power of the Voting Stock of the Company if such person or group also holds a greater percentage than the Permitted Holders hold, on an aggregate basis, of the total voting power of the Voting Stock of the Company; or

(4) during any period of 12 consecutive months, a majority of the members of the Board of Directors of the Company cease to be composed of individuals (i) who were members of the Board of Directors on the first day of such period, (ii) whose election or nomination to the Board of Directors was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of the Board of Directors or (iii) whose election or nomination to the Board of Directors was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of the Board of Directors (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of the Board of Directors occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the Board of Directors).

; *provided* that for the avoidance of doubt, in each of the above, none of the transactions contemplated in the Plan Confirmation Order or the Plan of Reorganization shall constitute, or be deemed to constitute, a Change of Control.

"Clearstream" means Clearstream Banking, Société Anonyme.

"Coal" means coal owned by the Company or any Guarantor, or coal that the Company or any Guarantor has the right to extract, in each case located on, under or within, or produced or extracted from the Real Property of the Company or any Guarantor.

"Collateral" means any and all property owned, leased or operated by the Company or a Guarantor and subject to a Lien created by the Collateral Documents and any and all other property of the Company or any Guarantor, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Collateral Trustee and for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) to secure the Securities Obligations; *provided* that Collateral shall exclude Excluded Property.

"Collateral Documents" means, collectively, the Security Agreement, each Lien Sharing and Priority Confirmation, the Mortgages, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and all other agreements, instruments and documents executed in connection with this Indenture that are intended to create, perfect or evidence Liens to secure the Securities Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, collateral trust agreements, intercreditor agreements or collateral sharing agreements, account control agreements, guarantees, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, leases, financing statements and all other written matter whether heretofore, now, or hereafter executed by the Company or any Guarantor and delivered to the Collateral Trustee, in each case that is intended to create, perfect or evidence Liens to secure the Securities Obligations, as the same may be

amended, amended and restated, restated, supplemented, renewed, extended, replaced or otherwise modified from time to time.

"Collateral Trust Agreement" means the Collateral Trust Agreement among the Company, the Subsidiaries of the Company from time to time party thereto, the Trustee and the Collateral Trustee, dated as of the Issue Date, as it may be amended, restated, supplemented, modified, extended, renewed or replaced from time to time in accordance with its terms.

"Collateral Trustee" means U.S. Bank National Association, together with its successors and permitted assigns, in its capacity as collateral trustee under the Collateral Trust Agreement, the Security Agreement and any other Collateral Document (and to the extent applicable any co-trustee or separate trustee appointed by the Collateral Trustee pursuant to the Collateral Trust Agreement).

"Company" means the party named as the "Company" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"Company Order" means a written request or order signed in the name of the Company by any two Officers and delivered to the Trustee.

"consolidated" with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

"Consolidated EBITDA" means, for any Person for any period, Consolidated Net Income for such Person for such period:

(1) *plus*, without duplication, the following for such Person and its Subsidiaries (Restricted Subsidiaries, in the case of the Company) for such period to the extent deducted in calculating Consolidated Net Income:

(A) federal state, local and foreign income tax expense for such period,

(B) non-cash compensation expense,

(C) losses on discontinued operations,

(D) extraordinary or non-recurring gains and losses in accordance with GAAP,

(E) Fixed Charges,

(F) depreciation, depletion and amortization of property, plant, equipment and intangibles,

(G) debt extinguishment costs,

(H) other non-cash charges (including, without limitation, FASB ASC 360-10 writedowns, but excluding any non-cash charge which requires an accrual of, or a cash reserve for, anticipated cash charges for any future period),

(I) reclamation and remediation obligation expenses determined in accordance with GAAP , including such expenses relating to selenium (it being understood that reclamation and remediation obligation expenses may not be added back under any other clause in this definition),

(J) cash proceeds of asset sales or principal repayments in cash of notes receivables related to asset sales, so long as such cash proceeds and cash repayments in the aggregate do not exceed 20% of Consolidated EBITDA in any reporting period,

(K) cash received from any non-wholly owned subsidiary or joint venture,

(L) transaction costs, fees and expenses incurred during such period in connection with any acquisition not prohibited hereunder or any issuance of debt or equity securities not prohibited hereunder (or repayment or refinancing of Indebtedness not prohibited hereunder) by the Company or any of its Restricted Subsidiaries, in each case for such period and any costs and expenses (including legal, financial and other advisors) incurred in connection with the Bankruptcy Proceedings and the Plan of Reorganization or any other transaction related thereto for such period,

(M) negative sales or purchase contract accretion, and

(N) past mining obligation expenses less past mining obligation cash payments;

provided that, with respect to any Subsidiary of such Person (Restricted Subsidiary, in the case of the Company), the foregoing such items shall be added only to the extent and in the same proportion that such Subsidiary's net income was included in calculating Consolidated Net Income.

(2) *minus*, without duplication, the following for such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period to the extent added in calculating Consolidated Net Income:

(A) federal state, local and foreign income tax benefit for such period,

(B) gains on discontinued operations,

(C) Consolidated EBITDA of any non-wholly owned subsidiary, and equity earnings and losses from joint ventures,

(D) cash dividends made to any minority interest holder, and

(E) positive sales or purchase contract accretion.

"Consolidated Funded Indebtedness" means, as of any date of determination, for the Company and its Restricted Subsidiaries on a consolidated basis, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments as of such date, (b) all direct obligations arising under standby letters of credit and similar instruments solely to the extent amounts have been drawn and remain unpaid thereunder (other than any letter of credit borrowings to the extent cash collateralized), (c) Attributable Indebtedness in respect of Capital Lease Obligations, (d) without duplication, all guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (c) above of Persons other than the Company or any Restricted Subsidiary, and (e) the Swap Termination Value that is due and payable by the Company and its Restricted Subsidiaries under any Swap Contract that has been closed out; *provided*, however, that Consolidated Funded Indebtedness shall exclude (x) any amount that would otherwise be included therein to the extent such amount represents capitalized interest that accrued on or after the date hereof on any Securities or any other Parity Lien Debt or unsecured Indebtedness (whether or not such capitalized interest has subsequently been refinanced or replaced) and (y) any unsecured debt to the extent such debt provides for interest solely paid-in-kind until after the date that is 91 days after the then Latest Maturity Date (as defined in the LC/Term Credit Agreement).

"Consolidated Net Income" means, for any Person for any period, the aggregate net income (or loss) of such Person and its Subsidiaries for such period determined on a consolidated basis in conformity with GAAP (after reduction for minority interests in Subsidiaries of such Person), provided that the following (without duplication) shall be excluded in computing Consolidated Net Income:

(1) the net income (or loss) of any Person other than a Subsidiary of such Person (Restricted Subsidiary, in the case of the Company), except to the extent of dividends or other distributions actually paid in cash to the Company or any of its Restricted Subsidiaries by such Person during such period;

(2) the net income (or loss) of any Subsidiary of such Person (Restricted Subsidiary, in the case of the Company) to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or in similar distributions has been legally waived;

(3) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to asset sales, other dispositions or the extinguishment of debt, in each case other than in the ordinary course of business;

(4) any net after-tax extraordinary gains or losses;

(5) the cumulative effect of a change in accounting principles; and

(6) in calculating Consolidated Net Income for purposes of clause (a)(iii) of Section 4.11 only, the net income (or loss) of a successor entity prior to assuming the Company's obligations hereunder and under the Securities pursuant to Section 5.01.

"Consolidated Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness *less* Unrestricted Cash as of such date, to (b) Consolidated EBITDA for the period of the four consecutive fiscal quarters ending as of the date of such financial statements.

"Consolidated Tangible Assets" means, as of any date of determination, (a) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the Company and its Restricted Subsidiaries minus (b) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the captions "goodwill" or other intangible categories (or any like caption) on a consolidated balance sheet of the Company and its Restricted Subsidiaries.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound, including, without limitation, any of the foregoing with respect to Real Property Leases.

"Corporate Trust Office" means the office of the Trustee at which at any time this Indenture shall be administered, which office at the date of execution of this instrument is located at the address of the Trustee in Nashville, Tennessee specified in Section 12.02 hereof, except that with respect to the surrender of Securities for registration of transfer, exchange, purchase or redemption or the office where Global Securities shall be deposited as custodian for the Depositary, such term means the address of the Trustee in St. Paul, Minnesota specified in Section 12.02 hereof and with respect to presentation or surrender of Securities for payment such term means the office or agency of the Trustee at which at any particular time its corporate agency business shall be conducted in the Borough of Manhattan, The City of New York, which office or agency on the Issue Date is located at 100 Wall Street, New York, New York 10005, Attention: Global Corporate Trust Services or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"Credit Agreement" means either of the ABL Credit Agreement or the LC/Term Credit Agreement.

"Credit Agreement Documents" means the collective reference to any Credit Agreement and any other Senior Lender Documents (as defined in the Junior Lien Intercreditor Agreement), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified, in whole or in part, from time to time.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"Definitive Security" means a certificated Security registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Security shall not bear the Global Securities Legend and shall not have the "Schedule of Increases or Decreases in the Global Security" attached thereto.

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

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or any of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officers' Certificate, less the amount of Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

"Disqualified Equity Interests" means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event:

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder prior to the Stated Maturity of the Securities for consideration other than Qualified Equity Interests, or

(2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Indebtedness, in each case prior to the date that is 91 days after the date on which the Securities mature; provided that Equity Interests shall not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to require the repurchase or redemption upon an "asset sale" or "change of control" occurring prior to the Stated Maturity of the Securities if those provisions:

(A) are no more favorable to the holders of such Equity Interests than those set forth under Section 4.13 and Section 4.15 hereof, respectively, and

(B) specifically state that repurchase or redemption pursuant thereto shall not be required prior to the Company's repurchase of the Securities as required under the terms hereof.

"Disqualified Stock" means Capital Stock constituting Disqualified Equity Interests.

"Domestic Subsidiary" means a Subsidiary incorporated or otherwise organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory or possession of the United States.

"DTC" means The Depository Trust Company, its nominees and successors.

"Environment" means ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata or sediment, natural resources such as flora or fauna or as otherwise defined in any Environmental Law.

"Environmental Laws" means any and all applicable current and future federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, concessions, grants, franchises, agreements or other governmental restrictions or common law causes of action relating to (a) protection of the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous materials, substances or wastes into the environment including ambient air, surface water, ground water, the land surface or subsurface strata or sediment, (b) the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201 et seq., as amended, (c) the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801 et seq., as amended, (d) human health as affected by hazardous or toxic substances, (e) acid mine drainage and (f) mining operations and activities to the extent relating to environmental protection or reclamation; *provided*, that "Environmental Laws" do not include any laws relating to worker or retiree benefits, including benefits arising out of occupational diseases.

"Environmental Permits" means any and all permits, licenses, registrations, certifications, notifications, exemptions and any other authorization required under any applicable Environmental Law (including, without limitation, those necessary under any applicable Environmental Laws for the construction, maintenance and operation of any coal mine or related processing facilities or the reclamation and restoration of land, water and any future, current, abandoned or former mines, and of any other Environment affected by such mines, as required pursuant to the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201 et seq., as amended, any other Environmental Law or any Environmental Permit).

"Equity Interests" means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Indebtedness convertible into, or exchangeable for, Capital Stock.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Company within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

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

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Excluded Property" has the meaning assigned to such term in the Security Agreement.

"Existing Indebtedness" means all Indebtedness of the Company or its Subsidiaries (other than Indebtedness under the Securities and the Guarantees issued on the date of this Indenture or under the ABL Credit Agreement or the LC/Term Credit Agreement) in existence on the date of this Indenture, until such amounts are repaid.

"Fair Market Value" means, with respect to any property, the price that could be negotiated in an arm's-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, if such property has a Fair Market Value in excess of $25,000,000, by at least a majority of the disinterested members of the Board of Directors and evidenced by a Board Resolution delivered to the Trustee.

"Fixed Charge Coverage Ratio" means, on any date (the "transaction date") for any Person, the ratio of:

(x) the aggregate amount of Consolidated EBITDA minus Capital Expenditures (excluding the portion thereof financed with the net proceeds of the sale or issuance of Equity Interests or financed under Capital Leases or other Indebtedness (excluding the proceeds of revolving loans advanced under the ABL Credit Agreement) for such Person for the four fiscal quarters immediately prior to the transaction date for which internal financial statements are available (the "reference period") to

(y) the aggregate Fixed Charges for such Person during such reference period, in all cases calculated on a consolidated basis for such Person.

In making the foregoing calculation,

(1) pro forma effect shall be given to any Indebtedness or Preferred Stock Incurred during or after the reference period to the extent the Indebtedness is outstanding or is to be Incurred on the transaction date as if the Indebtedness, Disqualified Stock or Preferred Stock had been Incurred on the first day of the reference period;

(2) pro forma calculations of interest on Indebtedness bearing a floating interest rate shall be made as if the rate in effect on the transaction date (taking into account any Hedging Agreement applicable to the Indebtedness if the Hedging Agreement has a remaining term of at least 12 months) had been the applicable rate for the entire reference period;

(3) Fixed Charges related to any Indebtedness or Preferred Stock no longer outstanding or to be repaid or redeemed on the transaction date, except for Interest Expense accrued during the reference period under a revolving credit to the extent of the commitment thereunder (or under any successor revolving credit) in effect on the transaction date, shall be excluded;

(4) pro forma effect shall be given to:

(A) the creation, designation or redesignation of Restricted and Unrestricted Subsidiaries,

(B) the acquisition or disposition of companies, divisions or lines of businesses by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company), including any acquisition or disposition of a company, division or

line of business since the beginning of the reference period by a Person that became a Subsidiary of such Person (Restricted Subsidiary, in the case of the Company) after the beginning of the reference period, and

(C) the discontinuation of any discontinued operations but, in the case of Fixed Charges, only to the extent that the obligations giving rise to the Fixed Charges shall not be obligations of such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) following the transaction date

that have occurred since the beginning of the reference period as if such events had occurred, and, in the case of any disposition, the proceeds thereof applied, on the first day of the reference period. To the extent that pro forma effect is to be given to an acquisition or disposition of a company, division or line of business, the pro forma calculation shall be based upon the most recent four full fiscal quarters for which the relevant financial information is available.

"Fixed Charges" means, for any Person for any period, the sum of:

(1) Interest Expense for such Person for such period; and

(2) the product of

(x) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock or Preferred Stock of such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company), except for dividends payable in Capital Stock of the Company other than Disqualified Stock or paid to such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company), and

(y) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate applicable to such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company).

"Foreign Subsidiary" means a Subsidiary not organized or existing under the laws of the United States of America or any state, territory or possession thereof or the District of Columbia.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, in each case, as in effect in the United States of America on the Issue Date, except with respect to any reports or financial information required to be delivered pursuant to Section 4.02 hereof, which shall be prepared in accordance with GAAP as in effect on the date thereof.

"Global Securities" means, individually and collectively, each of the Global Securities deposited with or on behalf of and registered in the name of the Depository or its nominee,

substantially in the form of Exhibit A hereto and that bears the Global Securities Legend and that has the "Schedule of Increases or Decreases in the Global Security" attached thereto, issued in accordance with Section 2.01, Section 2.06(b)(iv) or Section 2.06(d) hereof.

"Global Security Legend" means the legend set forth in Section 2.06(f)(ii), which is required to be placed on all Global Securities issued under this Indenture.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"guarantee" by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor"), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (c) as an account party in respect of any letter of credit or letter of guarantee issued to support such Indebtedness or other obligation; provided that the term "guarantee" shall not include endorsements for collection or deposit in the ordinary course of business.

"Guarantee" means an unconditional guaranty of the Securities Obligations given by any Subsidiary pursuant to the provisions of Article X of this Indenture.

"Guarantor" means (i) each Restricted Subsidiary of the Company in existence on the Issue Date that guarantees any of the ABL Credit Agreement or the LC/Term Credit Agreement and (ii) each Subsidiary that executes and delivers a Guarantee pursuant to Section 10.08 hereof and (iii) each Subsidiary that otherwise executes and delivers a Guarantee, in each case, until such time as such Subsidiary is released from its Guarantee in accordance with the provisions of this Indenture. References to Guarantor or Guarantors, where appropriate, shall include such Guarantor, or Guarantors, in its or their capacity as a grantor or mortgagor under the applicable Collateral Documents.

"Hedging Agreement" means any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement.

"Holder" or "Securityholder" means a Person in whose name a Security is registered on the Registrar's books.

"Incur" means, with respect to any Indebtedness or Capital Stock, to incur, create, issue, assume or guarantee such Indebtedness or Capital Stock. If any Person becomes a Restricted Subsidiary on any date after the date hereof (including by redesignation of an Unrestricted Subsidiary or failure of an Unrestricted Subsidiary to meet the qualifications necessary to remain an Unrestricted Subsidiary), the Indebtedness and Capital Stock of such Person outstanding on such date shall be deemed to have been Incurred by such Person on such date for purposes of Section 4.10 hereof, but shall not be considered the sale or issuance of Equity Interests for purposes of Section 4.13 hereof. Neither the accrual of interest nor the accretion of original issue discount nor the payment of interest in the form of additional Indebtedness (to the extent provided for when the Indebtedness on which such interest is paid was originally issued) shall be considered an Incurrence of Indebtedness.

"Indebtedness" means, with respect to any Person, without duplication,

(1) all indebtedness of such Person for borrowed money;

(2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments;

(4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services provided by third-party service providers which are recorded as liabilities under GAAP, excluding (i) trade payables arising in the ordinary course of business and payable in accordance with customary practice, and (ii) accrued expenses, salary and other employee compensation obligations incurred in the ordinary course;

(5) the Attributable Indebtedness of such Person in respect of Capital Leases;

(6) Disqualified Equity Interests of such Person;

(7) all Indebtedness of other Persons guaranteed by such Person to the extent so guaranteed;

(8) all Indebtedness (excluding prepaid interest thereon) of other Persons secured by a Lien on any property owned or being purchased by (including indebtedness owing under conditional sales or other title retention agreements) such Person, whether or not such Indebtedness is assumed by such Person or is limited in recourse; and

(9) all obligations of such Person under Hedging Agreements.

The amount of Indebtedness of any Person shall be deemed to be:

(A) with respect to Indebtedness secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the fair market value of such asset on the date the Lien attached and (y) the amount of such Indebtedness;

(B) with respect to any Indebtedness issued with original issue discount, the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness;

(C) with respect to any Hedging Agreement, the amount payable (determined after giving effect to all contractually permitted netting) if such Hedging Agreement terminated at that time; and

(D) otherwise, the outstanding principal amount thereof.

"Indenture" means this instrument, as amended or supplemented from time to time in accordance with the terms hereof, including the provisions of the TIA that are deemed to be a part hereof in the event this instrument is qualified under the TIA.

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

"Initial Public Offering" means the initial offering by the Company or any direct or indirect parent of the Company of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act (whether alone or in connection with or solely pursuant to a secondary public offering).

"Initial Securities" means the first $262,500,000 aggregate principal amount of Securities issued under this Indenture on the date hereof, which amount includes the issuance of Securities to certain Affiliates of the Backstop Parties in respect of backstop fees.

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

"Interest Expense" means, for any Person for any period, the consolidated interest expense of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company), *plus*, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by such Person or its Subsidiaries (Restricted Subsidiaries in the case of the Company), without duplication: (i) interest expense attributable to Capital Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense and (v) any of the above expenses with respect to Indebtedness of another Person guaranteed by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) or secured by a Lien on the assets of such Person or any of its Subsidiaries

(Restricted Subsidiaries in the case of the Company). Interest Expense shall be determined for any period after giving effect to any net payments made or received and costs incurred by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) with respect to any related interest rate Hedging Agreements.

"Investment" means:

(1) any advance (excluding intercompany liabilities incurred in the ordinary course of business in connection with the cash management operations of the Company or its Restricted Subsidiaries), loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Company or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries),

(2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form,

(3) any purchase or acquisition of Equity Interests, bonds, notes or other Indebtedness, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services, or

(4) any guarantee of any obligation of another Person.

If the Company or any Restricted Subsidiary (x) issues, sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a Subsidiary of the Company, or (y) designates any Restricted Subsidiary as an Unrestricted Subsidiary in accordance with the terms hereof, all remaining Investments of the Company and the Restricted Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Company or any Restricted Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

"Investment Grade Securities" means:

(1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody's and BBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among the Company and its Subsidiaries,

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment and/or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

"Issue Date" means the date on which the Securities (other than Additional Securities) are originally issued hereunder.

"Junior Lien Debt" means any Indebtedness of the Company that is secured by a Lien junior to the Liens securing the Securities and that was permitted to be incurred and so secured under each applicable Secured Debt Document; provided that the trustee, agent or representative of the holders of such Junior Lien Debt who maintains the transfer register for such Junior Lien Debt shall have become a party to the Collateral Trust Agreement by executing a joinder in the form required therefor under the Collateral Trust Agreement and all other requirements set forth in the Collateral Trust Agreement for such Indebtedness to constitute "Junior Lien Debt" shall have been met.

"Junior Lien Intercreditor Agreement" means the junior-lien intercreditor agreement, dated as of the Issue Date, among the Company, certain Subsidiaries as guarantors, Deutsche Bank AG New York Branch, as the ABL Agent, Barclays Bank PLC, as the LC Agent and the "Term Agent," Wilmington Trust, National Association, as the "LC/Term Collateral Agent," and the Collateral Trustee, as a "Junior-Priority Agent," and the other parties from time to time party thereto, as it may be amended, amended and restated, supplemented, modified replaced, extended, restructured or renewed from time to time in accordance with this Indenture.

"LC Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"LC/Term Cash Management Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"LC/Term Credit Agreement" shall mean (i) the Credit Agreement (L/C Facility and Term Facility), dated as of the date hereof, by and among the Company, as borrower, certain of its Subsidiaries as guarantors, the lenders party thereto from time and time, Barclays Bank PLC, as administrative agent for the L/C lenders and L/C issuers, Barclays Bank PLC, as administrative agent for the term lenders, and Wilmington Trust, National Association, as collateral agent for the lenders, the L/C issuers and the other secured parties, as in effect on the Issue Date and as the same may be amended, modified, supplemented, extended, renewed, restated, replaced or refinanced from time to time, (ii) any other LC/Term Credit Agreement (as defined in the Junior Lien Intercreditor Agreement) and (iii) all agreements, documents and/or instruments executed

and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time.

"LC/Term Hedging Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Letter of Credit Facility" means (i) the "L/C Facility" as such term is defined in the LC/Term Credit Agreement, and (ii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and so long as such Indebtedness is otherwise permitted under Section 4.10(b)(iii) hereof.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or Capital Lease).

"Lien Sharing and Priority Confirmation" has the meaning set forth in the Collateral Trust Agreement.

"Management Rights Offering Warrants" means the warrants to acquire up to 1,000,000 shares of Class A Common Stock issued from time to time in accordance with a management compensation plan or program.

"Material Adverse Effect" means (a) a material adverse effect on (i) the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries taken as a whole, other than as a result of (i) events leading up to, resulting from and following the commencement of the bankruptcy proceedings of the Company prior to the Issue Date or the continuation and prosecution thereof, (ii) any circumstances disclosed in the Debtors' Disclosure Statement filed with the Bankruptcy Court on November 4, 2013, (iii) any item disclosed in the reports and other documents furnished to or filed with the SEC or the Bankruptcy Court (including, for this purpose, the Debtors' case information website) by the Company and that are publicly available on or prior to November 8, 2013 (but in the case of each of clauses (ii) and (iii), without regard to "risk factor" or other forward looking disclosure and based solely on facts as disclosed therein (without giving effect to any developments not disclosed therein)) or (iv) any liability to Company and the ERISA Affiliates arising from any withdrawal from, or termination of, the United Mine Workers of America 1974 Pension Plan (unless the amount by which the aggregate annual amount of such liability exceeds the aggregate annual amount that the Company and the ERISA Affiliates are required to contribute to such plan as of immediately prior to such withdrawal or termination by itself has a material adverse effect upon the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole, (b) the ability of the Company and the Guarantors, taken as a whole, to perform any of its obligations under this Indenture, the Securities or the Collateral Documents or (c) the rights of or benefits available to the Secured Parties (as defined in the Collateral Trust Agreement) under this Indenture and the Collateral Documents.

"Material Leased Real Property" means (a) all Real Property subject to a Real Property Lease as of the Issue Date and for which the Company is required to deliver (or, if the terms of

the lease of such Real Property (or applicable state law, if such lease is silent on the issue) prohibit a mortgage thereof, to use commercially reasonable efforts to deliver) leasehold mortgages or leasehold deeds of trust pursuant to the LC/Term Credit Agreement or the ABL Credit Agreement, as in effect on the Issue Date, and (b) any other Real Property subject to a Real Property Lease entered into after the Issue Date with respect to which the Company or any Guarantor acquires an interest having a Fair Market Value reasonably estimated by the Company to be in excess of $2,500,000; provided, that in no event shall "Material Leased Real Property" include any Excluded Property.

"Material Owned Real Property" means (a) all Real Property owned as of the Issue Date and which is required to be subject to a deed of trust, trust deed, deed to secure debt, mortgage, or other similar agreement pursuant to the LC/Term Credit Agreement or the ABL Credit Agreement, as in effect on the Issue Date, and (b) any other Real Property acquired after the Issue Date and owned in fee by the Company or any Guarantor having a Fair Market Value reasonably estimated by the Company to be in excess of $1,000,000; provided, that in no event shall "Material Owned Real Property" include any Excluded Property.

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

"Mortgage" means each mortgage, deed of trust, leasehold mortgage, leasehold deed of trust or other agreement which conveys or evidences a Lien in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement), on owned or leased real property of the Company or any Guarantor, including any amendment, amendment and restatement, restatement, modification, supplement, extension, renewal or replacement thereto.

"Net Cash Proceeds" means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash but only when received), net of:

(1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;

(2) provisions for income Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Company and its Restricted Subsidiaries reasonably estimated to actually be payable within two years of the date of the relevant transaction as a result of any gain recognized in connection therewith, provided that if the amount of any estimated Taxes hereunder exceeds the amount of Taxes actually required to be paid in cash in respect of such Asset Sale, the aggregate amount of such excess shall constitute Net Cash Proceeds;

(3) payments required to be made to holders of minority interests in Restricted Subsidiaries as a result of such Asset Sale or to repay Indebtedness outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and

(4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

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

"Obligations" means, with respect to any Indebtedness, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Indebtedness, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding, whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured, and including without limitation (with respect to the Securities) the Acceleration Premium.

"Officer" means the Chairman, Vice Chairman, Chief Executive Officer, the President, any Executive Vice President, any Senior Vice President, any Vice President, the Chief Financial Officer, the Treasurer, the Secretary or any Assistant Secretary of the Company.

"OID Legend" means the legend set forth in Section 2.06(f)(iv) to be placed on all Securities issued under this Indenture.

"Officers' Certificate" means a written certificate containing the statements specified in Section 12.05, signed by any two Officers and delivered to the Trustee.

"Opinion of Counsel" means a written opinion containing the statements specified in Section 12.05, from legal counsel who is acceptable to the Trustee and delivered to the Trustee.

"Parity Lien" means a Lien granted, or purported to be granted, by a security document to the Collateral Trustee for the benefit of the Parity Lien Secured Parties, at any time, upon any property of the Company or any Guarantor to secure Parity Lien Obligations.

"Parity Lien Debt" means:

(1) the Securities issued on the date of this Indenture;

(2) any other Indebtedness of the Company (including Additional Securities issued under this Indenture) that is secured by a Parity Lien and that was permitted to be incurred and so secured under each applicable Secured Debt Document; *provided* that:

(a) the net proceeds of such Indebtedness are used to refund, refinance, replace, defease, discharge or otherwise acquire or retire Priority Lien Debt or other Parity Lien Debt;

(b) such Indebtedness was incurred in respect of Management Incentive Securities; or

(c) on the date of incurrence of such Indebtedness, after giving pro forma effect to the incurrence thereof and the application of the proceeds therefrom, the Consolidated Net Leverage Ratio shall be less than 3.5 to 1.0;

provided, in the case of any Indebtedness referred to in this clause (2):

(a) on or before the date on which such Indebtedness is incurred by the Company, such Indebtedness is designated by the Company in an Officers' Certificate delivered to each Parity Lien Representative and the Collateral Trustee, as "Parity Lien Debt" for the purposes of this Indenture and each applicable Secured Debt Document; *provided* that no Series of Secured Debt may be designated as both Parity Lien Debt and Priority Lien Debt;

(b) such Indebtedness is governed by an indenture, credit agreement or other agreement that includes a Lien Sharing and Priority Confirmation; and

(c) all requirements set forth in the Collateral Trust Agreement as to the confirmation, grant or perfection of the Collateral Trustee's Liens to secure such Indebtedness or Obligations in respect thereof are satisfied (and the satisfaction of such requirements and the other provisions of this clause (c) will be conclusively established if the Company delivers to the Collateral Trustee an Officers' Certificate stating that such requirements and other provisions have been satisfied and that such Indebtedness is "Parity Lien Debt").

"Parity Lien Documents" means this Indenture and any other indenture or credit agreement pursuant to which any Parity Lien Debt is incurred and any related documents or agreements evidencing, governing or implementing such Parity Lien Debt, including any Collateral Documents or other collateral documents (other than any Collateral Documents or other collateral documents that do not secure Parity Lien Obligations).

"Parity Lien Obligations" means Parity Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable) and all guarantees of any of the foregoing.

"Parity Lien Representative" means:

(1) in the case of the Securities, the Trustee; and

(2) in the case of any other Series of Parity Lien Debt, the trustee, agent or representative of the holders of such Series of Parity Lien Debt who maintains the transfer register for such Series of Parity Lien Debt and (a) is appointed as a Parity Lien Representative (for purposes related to the administration of the Security Documents) pursuant to an indenture, a credit agreement or other agreement governing such Series of Parity Lien Debt, together with its successors in such capacity, and (b) has become a party to the Collateral Trust Agreement by executing a joinder in the form required under the Collateral Trust Agreement.

"Parity Lien Secured Parties" means the holders of Party Lien Obligations, each Parity Lien Representative and the Collateral Trustee.

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

"Permitted Business" means any of the businesses in which the Company and its Restricted Subsidiaries are engaged on the Issue Date, and any other businesses reasonably related, incidental, complementary or ancillary thereto.

"Permitted Holder" means (1) the Voting Trust, (2) the United Mine Workers of America, (3) the Backstop Parties and their respective Affiliates and 4) a group of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that include one or more of the entities set forth in clauses (1) though (3) of this definition.

"Permitted Investments" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company that is a Guarantor;

(2) any Investment in cash or Cash Equivalents;

(3) any Investment by the Company or any Subsidiary of the Company in a Person, if, as a result of such Investment

(A) such Person becomes a Restricted Subsidiary of the Company and a Guarantor, or

(B) such Person is merged or consolidated with or into, or transfers or conveys substantially all its assets to, or is liquidated into, the Company or a Restricted Subsidiary that is a Guarantor;

(4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with Section 4.13 hereof;

(5) any Investment acquired solely in exchange for Qualified Stock of the Company;

(6) Hedging Agreements otherwise permitted under the terms hereof;

(7) (i) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;

(8) payroll, travel and other loans or advances to, or guarantees issued to support the obligations of, current or former officers, managers, directors, consultants and employees, in each case in the ordinary course of business, not in excess of $2,000,000 outstanding at any time;

(9) Investments in the nature of any Production Payments, royalties, dedication of reserves under supply agreements or similar rights or interests granted, taken subject to, or otherwise imposed on properties with normal practices in the mining industry;

(10) Investments consisting of obligations specified in Section 4.10(b)(viii) and Investments consisting of guarantees of Indebtedness permitted by Section 4.10;

(11) Investments resulting from pledges and deposits permitted under the definition of "Permitted Liens";

(12) Investments consisting of purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;

(13) Investments consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations in respect of coal sales contracts (and extensions or renewals thereof on similar terms) or under applicable law or with respect to workers' compensation benefits, in each case entered into in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under coal sales contracts (and extensions or renewals thereof on similar terms);

(14) Investments in Unrestricted Subsidiaries and joint ventures in an aggregate amount (without taking into account any changes in value after the making of any such Investment), taken together with all other Investments made in reliance on this clause, not to exceed the greater of (x) $100,000,000 and (y) 3.0% of Consolidated Tangible Assets (net of, with respect to the Investment in any particular Person, the cash return thereon received after the Issue Date as a result of any sale for cash, repayment, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income), not to exceed the amount of Investments in such Person made after the Issue Date in reliance on this clause); and

(15) in addition to Investments listed above, Investments in Persons engaged in Permitted Businesses in an aggregate amount (without taking into account any changes in value after the making of any such Investment), taken together with all other Investments made in

reliance on this clause, not to exceed the greater of (x) $100,000,000 and (y) 3.5% of Consolidated Tangible Assets (net of, with respect to the Investment in any particular Person made pursuant to this clause, the cash return thereon received after the Issue Date as a result of any sale for cash, repayment, return, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income) not to exceed the amount of such Investments in such Person made after the Issue Date in reliance on this clause).

"Permitted Land Swap" means any transfer conducted in the ordinary course of business, consistent with past practice, of Real Property by the Company or any Guarantor in which at least 75% of the consideration received by the transferor consists of Real Property; *provided*, that, unless otherwise permitted under the LC/Term Credit Agreement (i) the aggregate Fair Market Value of the Real Property being received by the Company or any Guarantor is approximately equal to or greater than the Fair Market Value of the Real Property being transferred by the Company or any Guarantor in such exchange, (ii) the Real Property received by the Company or any Guarantor will be used by the Company or any Guarantor in a line of business that the Company or any Guarantor engaged in on the Issue Date, (iii) the exchange of assets by the parties to the transaction is substantially simultaneous, (iv) in evaluating any such transfer, the Company or any Guarantor shall use sound mining and business practices, (v) the Real Property received by the Company or any Guarantor shall not be subject to any Contractual Obligation that limits the ability of the Company or any Guarantor to create, incur, assume or suffer to exist any Lien on such Real Property, except (A) to the extent that the Real Property being transferred by the Company or any Guarantor is subject to such a Contractual Obligation or (B) for Real Properties being transferred having an aggregate Fair Market Value not exceeding $15,000,000 during any fiscal year or $50,000,000 in the aggregate and (vi) the aggregate Fair Market Value of all Real Property transferred by the Company or any Guarantor in any such transfer or transfers shall not exceed $50,000,000 during any fiscal year or $150,000,000 in the aggregate.

"Permitted Liens" means, with respect to any Person:

(1) Liens existing on the Issue Date;

(2) Liens securing Parity Lien Obligations;

(3) Liens securing Priority Lien Obligations (including extensions, renewals or replacements of any such Liens in connection with the Refinancing of any Priority Lien Obligations secured thereby);

(4) (i) pledges or deposits under worker's compensation laws, unemployment insurance and other social security laws or regulations or similar legislation, or to secure liabilities to insurance carriers under insurance arrangements in respect of such obligations, or good faith deposits, prepayments or cash payments in connection with bids, tenders, contracts or leases, or to secure public or statutory obligations, surety and appeal bonds, customs duties and the like, or for the payment of rent, in each case incurred in the ordinary course of business and (ii) Liens securing obligations specified in clause (b)(viii) of the definition of "Permitted Indebtedness," Incurred in the ordinary course of business to secure performance of obligations with respect to statutory or regulatory requirements, performance or return-of-money bonds, contractual arrangements with suppliers, reclamation bonds, surety bonds or other obligations of

a like nature and Incurred in a manner consistent with industry practice, in each case which are not Incurred in connection with the borrowing of money or the obtaining of advances or credit;

(5) Liens imposed by law, such as carriers', vendors', warehousemen's and mechanics' liens, in each case for sums not overdue for a period of more than 60 days or being contested in good faith and by appropriate proceedings and in respect of Taxes and other governmental assessments and charges or claims which are not yet due or which are being contested in good faith and by appropriate proceedings;

(6) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker's liens and the like in favor of financial institutions and counterparties to financial obligations and instruments, including Hedging Agreements;

(7) Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;

(8) options, put and call arrangements, rights of first refusal and similar rights relating to Investments in joint ventures, partnerships and the like;

(9) judgment liens so long as no Event of Default then exists as a result thereof;

(10) Liens incurred in the ordinary course of business securing obligations other than Indebtedness for borrowed money and not in the aggregate materially detracting from the value of the properties or their use in the operation of the business of the Company and its Restricted Subsidiaries;

(11) Liens (including the interest of a lessor under a Capital Lease) on property that secure Indebtedness Incurred pursuant to clause (b)(xiii) of the definition of "Permitted Indebtedness" for the purpose of financing all or any part of the purchase price or cost of construction or improvement of such property, provided that the Lien does not (x) extend to any additional property or (y) secure any additional obligations, in each case other than the initial property so subject to such Lien and the Indebtedness and other obligations originally so secured;

(12) Liens on property of a Person at the time such Person becomes a Restricted Subsidiary of the Company, provided such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any Restricted Subsidiary;

(13) Liens on property at the time the Company or any of the Restricted Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Company or a Restricted Subsidiary of such Person, provided such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any Restricted Subsidiary;

(14) Liens securing Indebtedness or other obligations of the Company or a Restricted Subsidiary to the Company or a Guarantor;

(15) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;

(16) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(17) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Company or any Restricted Subsidiary on deposit with or in possession of such bank;

(18) Deposits made in the ordinary course of business to secure liability to insurance carriers;

(19) extensions, renewals or replacements of any Liens referred to in clauses (1), (2), (11), (12) or (13) in connection with the refinancing of the obligations secured thereby, provided that such Lien does not extend to any other property and, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the amount secured by such Lien is not increased;

(20) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Capital Leases), subleases, rights of use, licenses, special assessments, trackage rights, transmission and transportation lines related to mining leases or mineral right and/or other real property including any re-conveyance obligations to a surface owner following mining, royalty payments, and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on real property imposed by law or arising in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Company or any Restricted Subsidiary;

(21) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Company or its Restricted Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(22) rights of owners of interests in overlying, underlying or intervening strata and/or mineral interests not owned by the Company or any of its Restricted Subsidiaries, with respect to tracts of real property where the Company's or the applicable Restricted Subsidiary's ownership is only surface or severed mineral or is otherwise subject to mineral severances in favor of one or more third parties;

(23) other defects and exceptions to title of real property where such defects or exceptions could not reasonably be expected to have a Material Adverse Effect;

(24) leases, licenses, subleases and sublicenses created in the ordinary course of business which do not interfere in any material respect with the business of the Company or any of the Restricted Subsidiaries;

(25) Liens on shares of Capital Stock of any Unrestricted Subsidiary securing obligations of any Unrestricted Subsidiary;

(26) Liens arising from precautionary Uniform Commercial Code financing statement filings with respect to operating leases or consignment arrangements entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(27) Liens on assets of Foreign Restricted Subsidiaries securing Indebtedness of such Foreign Restricted Subsidiary incurred under clause (xv) of the definition of "Permitted Indebtedness" (or of any Foreign Restricted Subsidiary of such Foreign Restricted Subsidiary);

(28) Production Payments, royalties, dedication of reserves under supply agreements, mining leases, or similar rights or interests granted, taken subject to, or otherwise imposed on properties consistent with normal practices in the mining industry and any precautionary UCC financing statement filings in respect of leases or consignment arrangements (and not any Indebtedness) entered into in the ordinary course of business; and

(29) Liens on the Collateral securing Indebtedness secured by a lien that is junior to the Lien securing the Securities that has joined the Collateral Trust Agreement as "Junior Lien Debt" and other Obligations permitted to be incurred under Section 4.10(b)(xvii).

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

"PIK Interest" means interest paid in the form of (1) an increase in the outstanding principal amount of the Securities or (2) the issuance of PIK Securities.

"PIK Securities" means additional Securities issued under this Indenture on the same terms and conditions as the Securities issued on the Issue Date in connection with the payment of PIK Interest.

"Plan Confirmation Order" means the order entered by the Bankruptcy Court on December 17, 2013, which confirmed the Plan of Reorganization.

"Plan of Reorganization" means that certain Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code filed by the Company and certain of its affiliates on November 4, 2013 (Case No. 12-51502-659) in the United States Bankruptcy Court for the Eastern District of Missouri, as altered, amended, modified, or supplemented from time to time prior to entry of the Plan Confirmation Order, including any exhibits, supplements, annexes, appendices and schedules thereto, as confirmed by such Bankruptcy Court pursuant to the Plan Confirmation Order.

"Preferred Stock" means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

"Principal Amount" or "principal amount" of a Security means the Principal Amount as set forth on the face of the Security or, in the case of a Global Security, as such Principal Amount may be increased or decreased as set forth in Schedule I attached thereto, in all cases including any increase in the principal amount of the Securities as a result of the payment of PIK Interest.

"Priority Lien" means a Lien granted at any time and from time to time, upon any property of the Company or any Guarantor to secure Priority Lien Obligations.

"Priority Lien Debt" means any Indebtedness now or hereafter incurred under the ABL Credit Agreement and the LC/Term Credit Agreement (including, in each case, letters of credit and reimbursement Obligations with respect thereto) and all other Indebtedness constituting Priority Lien Obligations.

For the avoidance of doubt, ABL Hedging Obligations, ABL Bank Product Obligations, LC/Term Cash Management Obligations and LC/Term Hedging Obligations do not constitute Priority Lien Debt but may constitute Priority Lien Obligations.

"Priority Lien Obligations" means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt, including without limitation any post-petition interest whether or not allowable, together with all ABL Hedging Obligations, ABL Bank Product Obligations, LC/Term Cash Management Obligations, LC/Term Hedging Obligations and any other Senior-Lien Obligations and all guarantees of any of the foregoing.

"Priority Lien Representative" means (1) in the case of the Term Facility, the Term Agent, (2) in the case of the L/C Facility, the LC Agent, (3) in the case of the ABL Credit Agreement, the ABL Agent or (4) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and is appointed as a representative of the Priority Lien Debt pursuant to the credit agreement or other agreement governing such Series of Priority Lien Debt and any other Senior Priority Agent (as defined in the Junior Lien Intercreditor Agreement), in any such case of this clause (4) who has delivered a joinder to the Junior Lien Intercreditor Agreement in the form required under the Junior Lien Intercreditor Agreement.

"Priority Lien Secured Parties" means the holders of Priority Lien Obligations and each Priority Lien Representative.

"Private Placement Legend" means the legend set forth in Section 2.06(f)(i) to be placed on all Securities issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Production Payments" means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such

Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

"Properties" means the facilities and properties currently or formerly owned, leased or operated by the Company or any of its Subsidiaries.

"Public Offering" means an Initial Public Offering or subsequent public offering or effective registration or an effective listing or qualification of equity securities of the Company on a securities market in accordance with applicable laws, rules or regulations, whether effected pursuant to an effective registration statement under the Securities Act or otherwise.

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

"Qualified Equity Interests" means all Equity Interests of a Person other than Disqualified Equity Interests.

"Rating Agency" means (1) each of Moody's and S&P and (2) if Moody's or S&P ceases to rate the Securities for reasons outside of the Company's control, a "nationally recognized statistical rating organization" within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Company, the Company or any direct or indirect parent of the Company as a replacement agency for Moody's or S&P, as the case may be.

"Real Property" shall mean, collectively, all right, title and interest of the Company or any other Subsidiary (including any leasehold or mineral estate) in and to any and all parcels of real property owned or operated by the Company or any other Subsidiary, whether by lease, license or other use agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals.

"Real Property Lease" means any lease, license, letting, concession, occupancy agreement, sublease, easement, option or right of way to which such Person is a party and is granted a possessory interest in or a right to use or occupy all or any portion of any Real Property (including, without limitation, any water or surface right with respect to Real Property not owned in fee by such Person, any right to timber and natural gas (including coalbed methane and gob gas) necessary to recover Coal from any portion of Real Property not owned in fee by such Person or the right to extract minerals from any portion of Real Property not owned in fee by such Person) and every amendment or modification thereof.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Security" means a Regulation S Temporary Global Security or a Regulation S Permanent Global Security, as appropriate.

"Regulation S Permanent Global Security" means a Global Security substantially in the form of Exhibit A hereto, bearing the Global Security Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Securities sold in reliance on Regulation S.

"Regulation S Temporary Global Security" means a temporary Global Security substantially in the form of Exhibit A, bearing the Private Placement Legend and the Regulation S Temporary Global Security Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Securities initially sold in reliance on Rule 903 of Regulation S.

"Regulation S Temporary Global Security Legend" means the legend set forth in Section 2.06(f)(iii).

"Reinvestment Rate" shall mean with respect to the Securities, 0.50% plus the arithmetic mean of the yields under the heading "Week Ending" published in the most recent Statistical Release under the caption "Treasury Constant Maturities" for the maturity (rounded to the nearest month) corresponding to the remaining life to maturity, as of the accelerated payment date of the Securities. If no maturity exactly corresponds to such maturity, yields for the two published maturities most closely corresponding to such maturity shall be calculated pursuant to the immediately preceding sentence and the Reinvestment Rate shall be interpolated or extrapolated from such yields on a straight-line basis, rounding in each of such relevant periods to the nearest month. For the purposes of calculating the Reinvestment Rate, the most recent Statistical Release published prior to the date of determination of the Acceleration Premium shall be used.

"Responsible Officer" means, when used with respect to the Trustee, any officer assigned to the Corporate Trust Department (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and for the purposes of Section 7.01(c)(ii) and the second sentence of Section 7.05 shall also include any other officer of the Trustee to whom any corporate trust matter is referred because of such officer's knowledge of and familiarity with the particular subject.

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

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

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

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

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this

Indenture, all references to Restricted Subsidiaries shall mean Restricted Subsidiaries of the Company.

"Rights Offering Warrants" means (i) the warrants to acquire 10,000,000 shares of Class A Common Stock issued pursuant to the Warrants Rights Offering, (ii) the warrants to acquire 500,000 shares of Class A Common Stock in connection with the issuance of the Backstop Fee Notes (as defined in the Backstop Agreement) and (iii) the Management Rights Offering Warrants.

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

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

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

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

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor to the rating agency business thereof.

"Sale and Leaseback Transaction" means, with respect to any Person, an arrangement whereby such Person enters into a lease of property previously transferred by such Person to the lessor.

"SEC" means the Securities and Exchange Commission.

"Secured Debt" means Parity Lien Debt and Priority Lien Debt.

"Secured Debt Documents" means the Parity Lien Documents and the Priority Lien Documents.

"Secured Debt Representative" means each Parity Lien Representative and each Priority Lien Representative.

"Secured Obligations" means Parity Lien Obligations and Priority Lien Obligations.

"Secured Parties" means the holders of Secured Obligations, the Secured Debt Representatives and the Collateral Trustee.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Securities Obligations" has the meaning given to it in the Collateral Trust Agreement.

"Security" or "Securities" means any of the Company's 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023, as amended or supplemented from time to time, issued under this Indenture, including any PIK Securities issued in respect of Securities and any increase in the principal amount of outstanding Securities as a result of the payment of PIK Interest.

"Security Agreement" means that certain Pledge and Security Agreement (including any and all supplements thereto), dated as of the Issue Date, by and among the Company, the Subsidiaries of the Company from time to time party thereto and the Collateral Trustee, for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement), and any other pledge or security agreement entered into, after the date of this Indenture by the Company or any Subsidiary (as required by this Indenture or any Collateral Document), or any other Person granting any Liens to secure the Securities Obligations, as the same may be amended, amended and restated, restated, supplemented, modified, extended, renewed or replaced from time to time.

"Securityholder" or "Holder" means a Person in whose name a Security is registered on the Registrar's books.

"Senior-Lien Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Senior Priority After-Acquired Property" means any and all assets or property of the Company or any Guarantor that secures any Bank Indebtedness that is not already subject to the Lien under the Collateral Documents, except to the extent such asset or property constitutes Excluded Property.

"Series of Parity Lien Debt" means, severally, the Securities and each other issue or series of Indebtedness that constitutes Parity Lien Debt for which series a single transfer register is maintained. For the avoidance of doubt, all reimbursement or participation obligations in respect of letters of credit issued pursuant to a Parity Lien Document shall be part of the same Series of Parity Lien Debt as all other Parity Lien Debt incurred pursuant to such Parity Lien Document.

"Series of Priority Lien Debt" means Indebtedness outstanding under the ABL Credit Agreement, the LC/Term Credit Agreement and each other series or issue of Priority Lien Debt for which a single transfer register is maintained. For the avoidance of doubt, all reimbursement or participation obligations in respect of letters of credit issued pursuant to a Priority Lien Document shall be part of the same Series of Priority Lien Debt as all other Priority Lien Debt incurred pursuant to such Priority Lien Document.

"Series of Secured Debt" means each Series of Parity Lien Debt and each Series of Priority Lien Debt.

"Significant Subsidiary" has the meaning ascribed to such term in Regulation S-X (17 CFR Part 210). Unless the context requires otherwise, "Significant Subsidiary" shall refer to a Significant Subsidiary of the Company.

"Specified Cure" has the meaning set forth in each of the Credit Agreements.

"Stated Maturity" means with respect to any Indebtedness, the date specified as the fixed date on which the final installment of principal of such Indebtedness is due and payable, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

"Subordinated Indebtedness" means (a) with respect to the Company, any Indebtedness of the Company which is by its written terms subordinated in right of payment to the Securities, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its written terms subordinated in right of payment to its Guarantee.

"Subsidiary" means, with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, "Subsidiary" means a Subsidiary of the Company.

"Swap Termination Value" means, in respect of any one or more Hedging Agreements, after taking into account the effect of any valid netting agreement relating to such Hedging Agreements, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreements.

"Taxes" means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

"Term Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Term Facility" means (i) the "Term Facility" as such term is defined in the LC/Term Credit Agreement, and (ii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and so long as such Indebtedness is otherwise permitted under Section 4.10(b)(i) hereof.

"TIA" means the Trust Indenture Act of 1939 as in effect on the date of this Indenture, *provided, however,* that in the event the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

"Trustee" means the party named as the "Trustee" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent successor.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York or any other jurisdiction the laws of which are required to be applied in connection with the issue of perfection of security interests.

"Unrestricted Cash" means cash or Cash Equivalents of the Company and its Restricted Subsidiaries that would not appear as "restricted" on a consolidated balance sheet of the Company and its Subsidiaries.

"Unrestricted Definitive Security" means one or more Definitive Securities that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Security" means a permanent Global Security substantially in the form of Exhibit A attached hereto that bears the Global Security Legend and that has the "Schedule of Increases or Decreases in the Global Security" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary or its nominee, representing a series of Securities that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary;

the Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; *provided, however,* that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any of the Restricted Subsidiaries; *provided, further, however*, that either:

(a) the Subsidiary to be so designated has total consolidated assets of $1,000 or less; or

(b) if such Subsidiary has consolidated assets greater than $1,000, then such designation would be permitted under Section 4.11;

the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however,* that immediately after giving effect to such designation:

(x) (1) the Company could Incur $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.10(a), or (2) the Fixed Charge Coverage Ratio would be greater than such ratio immediately prior to such designation, in each case on a *pro forma* basis taking into account such designation, and

(y) no Event of Default shall have occurred and be continuing.

Any such designation by the Company shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Government Obligations" means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agent or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

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

"Voting Stock" means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Voting Trust" means that certain voting trust established pursuant to that certain Voting Trust Agreement, by and between the Company and Torque Point Advisors, LLC, dated as of the date hereof, as may be amended, modified or supplemented from time to time.

"Warrants Rights Offering" means the rights offering for the Rights Offering Warrants described in Section 5.6 of the Plan of Reorganization.

"Wholly Owned Restricted Subsidiary" is any Wholly Owned Subsidiary that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares or shares required to be held by Foreign Subsidiaries) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

Section 1.02 Other Definitions.

Term	Defined in Section
Act	Section 1.05(a)
Asset Sale Offer	Section 4.13(a)(iv)
Article 9 Collateral	Section 11.05(a)
Change of Control Repurchase Offer	Section 4.15(b)
Event of Default	Section 6.01
Excess Proceeds	Section 4.13(a)(iv)
Fixed Charge Coverage Ratio Test	Section 4.10(a)
Increased Amount	Section 4.16(d)
Legal Holiday	Section 12.08
Management Incentive Securities	Section 4.10(b)(xiv)
Offer Period	Section 4.13(c)
Paying Agent	Section 2.03
Permitted Indebtedness	Section 4.10(b)

Permitted Refinancing Indebtedness	Section 4.10(b)(vi)
Public Offering Repurchase Offer	Section 4.15(b)
Registrar	Section 2.03
Related Party Transaction	Section 4.14(a)
Restricted Payments	Section 4.11(a)
Rule 3-16	Section 11.01(b)(i)
Rule 144A Information	Section 4.05

Section 1.03 Incorporation by Reference of Trust Indenture Act. In the event this Indenture is qualified under the TIA, whenever this Indenture expressly refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"Commission" means the SEC.

"indenture securities" means the Securities.

"indenture security holder" means a Securityholder.

"indenture to be qualified" means this Indenture.

"indenture trustee" or "institutional trustee" means the Trustee.

"obligor" on the indenture securities means the Company.

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

Section 1.04 Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it in this Article;

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

(c) "or" is not exclusive;

(d) "including" means including, without limitation;

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

(f) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision hereof;

(g) unsecured Indebtedness shall not be deemed to be subordinated or junior to Secured Indebtedness merely because it is unsecured, (2) Secured Indebtedness shall not be deemed to be subordinated or junior to any other Secured Indebtedness merely because it has a junior priority with respect to the same collateral and (3) Indebtedness that is not guaranteed shall not be deemed to be subordinated or junior to Indebtedness that is guaranteed merely because of such guarantee; and

(h) references herein to Articles, Sections, Annexes and Exhibits are references to Articles, Sections, Annexes and Exhibits to this Indenture unless the context otherwise clearly indicates.

Section 1.05 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority.

The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of registered Securities shall be proved by the register maintained by the Registrar.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

(e) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Securities shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE II
THE SECURITIES

Section 2.01 Form and Dating.

(a) General. The Securities and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication. The Securities, including any PIK Securities, shall be issued in minimum denominations of $1.00 and integral multiples of $1.00 in excess thereof.

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

After the Issue Date, the Company shall be entitled, subject to its compliance with Section 2.02 and Section 4.10, to issue Additional Securities under this Indenture, which Securities shall have identical terms as the Initial Securities issued on the Issue Date, other than with respect to the date of issuance, issue price and, if applicable, the first interest payment date.

The Initial Securities, the Additional Securities and the PIK Securities shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Securities shall include the Initial Securities and any Additional Securities or PIK Securities; *provided*, *however*, that in the event that any Additional Securities are not fungible with the Securities for U.S. federal income tax

purposes, such nonfungible Additional Securities shall be issued with a separate CUSIP or ISIN number so that they are distinguishable from the Securities.

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

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Security will be exchanged for beneficial interests in the Regulation S Permanent Global Security pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Security, the Trustee will cancel the Regulation S Temporary Global Security. The aggregate principal amount of the Regulation S Temporary Global Security and the Regulation S Permanent Global Security may from time to time be increased or decreased by adjustments made on the records of the Registrar and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(c) Euroclear and Clearstream Procedures Applicable. The Applicable Procedures shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Security and the Regulation S Permanent Global Security that are held by Participants through Euroclear or Clearstream. The Trustee shall have no duties in respect of this Section 2.01(c) and shall not be deemed to have knowledge of the contents of the documents cited in this subsection.

(d) Certificated Securities. Securities not issued as interests in the Global Securities will be issued in certificated form substantially in the form of Exhibit A attached hereto.

Section 2.02 Execution and Authentication. The Securities shall be executed on behalf of the Company by any Officer. The signature of the Officer of the Company on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at the time of the execution of the Securities the proper Officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the

authentication and delivery of such Securities or did not hold such offices at the date of authentication of such Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an officer or other authorized signatory of the Trustee, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

The Trustee shall authenticate and deliver Securities (including Additional Securities) for original issue upon receipt of a Company Order and an Opinion of Counsel covering such matters as the Trustee or the Collateral Trustee may reasonably request without any further action by the Company. In addition, in connection with the payment of PIK Interest, the Trustee shall upon receipt of a Company Order and an Opinion of Counsel authenticate and deliver PIK Securities for an aggregate principal amount specified in such Company Order for such PIK Securities issued hereunder.

The Securities shall be issued only in registered form without coupons and only in minimum denominations of $1.00 of Principal Amount and any integral multiple thereof.

Section 2.03 Registrar and Paying Agent. The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Securities may be presented for purchase or payment ("Paying Agent"). The Registrar shall keep a register of the Securities and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term Paying Agent includes any additional paying agent, including any named pursuant to Section 4.04.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar (other than the Trustee). The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee by a Company Order of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Company or any Subsidiary or an Affiliate of either of them may act as Paying Agent, Registrar or co-registrar.

The Company initially appoints DTC to act as Depositary with respect to the Global Securities.

The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Securities.

Section 2.04 Paying Agent to Hold Money in Trust. Except as otherwise provided herein, on or prior to each due date of payments in respect of any Security, the Company shall deposit with the Paying Agent a sum of money (in immediately available funds if deposited on the due date) sufficient to make such payments when so becoming due. The Company shall

require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money held by the Paying Agent for the making of payments in respect of the Securities and shall notify the Trustee of any Default by the Company in making any such payment. At any time during the continuance of any such Default, the Paying Agent shall, upon the written request of the Trustee, forthwith pay to the Trustee all money so held in trust. If the Company, a Subsidiary or an Affiliate of either of them acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by it. Upon doing so, the Paying Agent shall have no further liability for the money.

Section 2.05 Securityholder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Securityholders. If the Trustee is not the Registrar, the Company shall cause to be furnished to the Trustee at least semiannually on March 15 and September 15 a listing of Securityholders dated within 15 days of the date on which the list is furnished and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Securityholders.

Section 2.06 Transfer and Exchange.

(a) Transfer and Exchange of Global Securities. A Global Security may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Securities will be exchanged by the Company for Definitive Securities if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary or (ii) the Company in its sole discretion determines that the Global Securities (in whole but not in part) should be exchanged for Definitive Securities and delivers a written notice to such effect to the Trustee. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Securities shall be issued in such names as the Depositary shall instruct the Trustee. Global Securities also may be exchanged or replaced, in whole or in part, as provided in Section 2.07 and Section 2.09 hereof. A Global Security may not be exchanged for another Security other than as provided in this Section 2.06(a), however, beneficial interests in a Global Security may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Securities. The transfer and exchange of beneficial interests in the Global Securities shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Neither the Trustee nor the Registrar shall have any duty to monitor compliance with the requirements or conditions for effecting transfers of beneficial interests within a Global Security. Beneficial interests in the Restricted Global

Securities shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Securities also shall require compliance with either clause (i) or (ii) below, as applicable, as well as one or more of the other following subsections, as applicable:

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

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Securities. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) both (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) both (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Security in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Security shall be registered to effect the transfer or exchange referred to in (1) above; provided that in no event shall Definitive Securities be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Security prior to the expiration of the Restricted Period as certified by the Company to the Registrar. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Securities contained in this Section, the Trustee shall adjust the principal amount of the relevant Global Security(s) pursuant to Section 2.06(g) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Security. A beneficial interest in any Restricted Global Security may be transferred to a Person who takes delivery thereof in the form of a beneficial

interest in another Restricted Global Security if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

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

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

(C) if the transferee will take delivery in the form of a beneficial interest in an Accredited Investor Global Security, then the transferor must deliver a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Security for Beneficial Interests in an Unrestricted Global Security. A beneficial interest in any Restricted Global Security may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Security or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

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

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

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

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

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

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

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

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

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

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

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

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

(E) if such beneficial interest is being transferred to an Accredited Investor or an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act

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

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

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Security to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Security in the appropriate principal amount. Any Definitive Security issued in exchange for a beneficial interest in a Restricted Global Security pursuant to this Section 2.06(c)(i) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Securities to the Persons in whose names such Securities are so registered. Any Definitive Security issued in exchange for a beneficial interest in a Restricted Global Security pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and the Regulation S Temporary Global Security Legend, as applicable, and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Security to Definitive Securities. Notwithstanding Section 2.06(c)(i)(A) and Section 2.06(c)(i)(C), a beneficial interest in the Regulation S Temporary Global Security may not be exchanged for a Definitive Security or transferred to a Person who takes delivery thereof in the form of a Definitive Security prior to (A) the expiration of the Restricted Period as certified to the Registrar by the Company and (B) the receipt by the Registrar of a certificate in the form attached as Exhibit B hereto, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Securities to Unrestricted Definitive Securities. A Holder of a beneficial interest in a Restricted Global Security may exchange such beneficial interest for an Unrestricted Definitive Security or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Security only if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Security proposes to exchange such beneficial interest for an

Unrestricted Definitive Security, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Security proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Security that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

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

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

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

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

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

(B) if such Restricted Definitive Security is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Security is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

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

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

(F) if such Restricted Definitive Security is being transferred to the Company or any of their Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Security is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Security, increase or cause to be increased the aggregate principal amount of, in the case of clause (A), (D), (F) or (G) above, the appropriate Restricted Global Security, in the case of clause (B) above, the 144A Global Security, in the case of clause (C) above, the Regulation S Global Security, and in the case of clause (E) above, the Accredited Investor Global Security.

(ii) Restricted Definitive Securities to Beneficial Interests in Unrestricted Global Securities. A Holder of a Restricted Definitive Security may

exchange such Security for a beneficial interest in an Unrestricted Global Security or transfer such Restricted Definitive Security to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security only if the Registrar receives the following:

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

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

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

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Securities and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Security.

(iii) Unrestricted Definitive Securities to Beneficial Interests in Unrestricted Global Securities. A Holder of an Unrestricted Definitive Security may exchange such Security for a beneficial interest in an Unrestricted Global Security or transfer such Definitive Securities to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Security and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Securities.

If any such exchange or transfer from a Definitive Security to a beneficial interest is effected pursuant to clause (ii) or (iii) above at a time when an Unrestricted Global Security has not yet been issued, the Company shall issue and, upon receipt of a Company Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Securities in an aggregate principal amount equal to the principal amount of Definitive Securities so transferred.

(e) Transfer and Exchange of Definitive Securities for Definitive Securities. Upon request by a Holder of Definitive Securities and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of

Definitive Securities. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Securities duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

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

(A) if the transfer will be made to a QIB in accordance with Rule 144A under the Securities Act, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

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

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

(ii) Restricted Definitive Securities to Unrestricted Definitive Securities. Any Restricted Definitive Security may be exchanged by the Holder thereof for an Unrestricted Definitive Security or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Security if the Registrar receives the following:

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

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

and, in each such case set forth in these subparagraphs (A) and (B), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the

Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

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

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

(i) Private Placement Legend.

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

"THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (5) PURSUANT TO ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED ON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS."

(B) Notwithstanding the foregoing, any Global Security or Definitive Security issued pursuant to clause (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii), or (e)(iii) of this Section 2.06 (and all Securities issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Security Legend. Each Global Security shall bear a legend in substantially the following form:

"THIS GLOBAL SECURITY IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS SECURITY) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO Section 2.06(g) OF THE INDENTURE, (II) THIS GLOBAL SECURITY MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO Section 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL SECURITY MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO Section 2.10 OF THE INDENTURE AND (IV) THIS GLOBAL SECURITY MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iii) Regulation S Temporary Global Security Legend. Each temporary Security that is a Global Security issued pursuant to Regulation S shall bear a legend in substantially the following form:

"THIS GLOBAL SECURITY IS A TEMPORARY GLOBAL SECURITY FOR PURPOSES OF REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. NEITHER THIS TEMPORARY GLOBAL SECURITY NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD OR DELIVERED, EXCEPT AS PERMITTED UNDER THE INDENTURE REFERRED TO BELOW.

NO BENEFICIAL OWNERS OF THIS TEMPORARY GLOBAL SECURITY SHALL BE ENTITLED TO RECEIVE PAYMENT OF PRINCIPAL OR INTEREST HEREON UNLESS THE REQUIRED CERTIFICATIONS HAVE BEEN DELIVERED PURSUANT TO THE TERMS OF THE INDENTURE."

(iv) OID Legend. Each Global Security and each Definitive Security (and all Securities issued in exchange therefor or substitution therefor) shall bear the legend in substantially the following form:

"THIS SECURITY HAS BEEN ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR PURPOSES OF SECTIONS 1271 ET SEQ. OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE DATE OF THIS SECURITY IS DECEMBER 18, 2013. FOR INFORMATION REGARDING THE ISSUE PRICE, THE YIELD TO MATURITY AND THE AMOUNT OF OID PER $1,000 OF PRINCIPAL AMOUNT, PLEASE CONTACT THE COMPANY AT PATRIOT COAL CORPORATION, 12312 OLIVE BOULEVARD, SUITE 400, ST. LOUIS, MISSOURI 63141, ATTENTION: CHIEF FINANCIAL OFFICER."

(g) Cancellation and/or Adjustment of Global Securities. At such time as all beneficial interests in a particular Global Security have been exchanged for Definitive Securities or a particular Global Security has been redeemed, repurchased or canceled in whole and not in part, each such Global Security shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Security is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security or for Definitive Securities, the principal amount of Securities represented by such Global Security shall be reduced accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security, such other Global Security shall be increased accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Securities and Definitive Securities upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Security or to a Holder of a Definitive Security for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Section 2.09, Section 4.13, Section 4.15 and Section 9.05 hereof).

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

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

(v) The Company shall not be required to register the transfer of or to exchange a Security between a record date and the next succeeding interest payment date.

(vi) Prior to due presentment for the registration of a transfer of any Security, the Trustee, any Paying Agent, any Registrar, any co-registrar and the Company may deem and treat the Holder as the absolute owner of such Security for the purpose of receiving payment of principal of and interest on such Securities and for all other purposes, and none of the Trustee, any Paying Agent, any Registrar, any co-registrar or the Company shall be affected by notice to the contrary.

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

Section 2.07 Replacement Securities. If any mutilated Security is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Security, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Security if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company may charge for its expenses in replacing a Security.

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

Section 2.08 Outstanding Securities; Determinations of Holders' Action. The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Company or any Subsidiary of the Company, or by any Person directly or indirectly controlled by the Company or any Subsidiary of the Company, will be considered as though not outstanding, except that for the

purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Securities that the Trustee knows are so owned will be so disregarded. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Company to be owned or held by or for the account of any of the above described Persons, and the Trustee shall be entitled to accept and rely upon such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are outstanding for the purpose of any determination.

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

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

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

Section 2.09 Temporary Securities. Pending the preparation of definitive Securities, the Company may execute, and upon receipt of a Company Order the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.03, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall, upon receipt of a Company Order, authenticate and deliver in exchange therefor a like Principal Amount of definitive Securities of authorized denominations. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

Section 2.10 Cancellation. All Securities surrendered for payment or redemption by the Company pursuant to redemption or registration of transfer or exchange, shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation, except as otherwise permitted by this Indenture. No Securities shall be

authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in accordance with the Trustee's customary procedure.

Section 2.11 Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of the Principal Amount of the Security in respect thereof, premium, if any, and accrued and unpaid interest thereon for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12 CUSIP Numbers. The Company may issue the Securities with one or more "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Securities, and any such notice shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP numbers.

Section 2.13 Defaulted Interest.

If the Company defaults in a payment of interest on the Securities, the Company shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Securities. If the Company pays the defaulted interest on or prior to 30 days of the default in payment in interest, payment shall be paid to the record Holders of the Securities as of the original record date. If such default in payment of interest continues after 30 days, payment shall be paid to the record Holders of the Securities on a subsequent special record date. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Security and the date of the proposed payment. The Company shall fix or cause to be fixed such special record date, if any, and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.14 PIK Interest.

(a) In the event the Company elects to pay PIK Interest, no later than two Business Days prior to the relevant interest payment date the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Securities represented by Certificated Securities, the required amount of new PIK Securities represented by Certificated Securities (rounded up to the nearest whole dollar) and a Company Order to authenticate and deliver such PIK Securities or (ii) with respect to Securities represented by one or more Global Securities, a Company Order to increase the

outstanding principal amount of such Global Securities by the required amount (rounded up to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of new PIK Securities represented by Global Securities (rounded up to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Securities).

(b) Any PIK Securities shall, after being executed and authenticated pursuant to Section 2.02, be (i) if such PIK Securities are Certificated Securities, mailed to the Person entitled thereto as shown on the register maintained by the Registrar for the Certificated Securities as of the relevant record date or (ii) if such PIK Securities are Global Securities, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of PIK Interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Securities outstanding for which PIK Securities will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

(c) Payment shall be made in such form and terms as specified in this Section 2.14 and the Company shall and the Paying Agent may take additional steps as is necessary to effect such payment. The Company may not issue PIK Securities in lieu of paying interest in cash if such interest is payable with respect to any principal amount that is due and payable, whether at Stated Maturity, upon redemption, repurchase or otherwise.

ARTICLE III
REDEMPTION OF SECURITIES

Section 3.01 No Right of Redemption. No sinking fund is provided for the Securities. The Company shall not have the right to redeem any Securities (other than in connection with any replacement, retirement, cancellation or exchange of Securities as contemplated in Article II).

The Company may, at any time and from time to time, purchase Securities in the open market or otherwise, subject to compliance with this Indenture and compliance with all applicable securities laws.

ARTICLE IV
COVENANTS

Section 4.01 Payment of Securities. The Company shall promptly make all payments in respect of the Securities on the dates and in the manner provided in the Securities or pursuant to this Indenture. Any cash payments to be given to the Trustee or Paying Agent, as the case may be, shall be deposited with the Trustee or Paying Agent, as the case may be, in immediately available funds by 10:00 a.m. (New York City time) by the Company. Principal Amount, premium, if any, and interest, if any, due on overdue amounts shall be considered paid on the applicable date due if at 10:00 a.m. (New York City time) on such date the Trustee or the Paying Agent, as the case may be, holds, in accordance with this Indenture, money sufficient to pay all such amounts then due.

PIK Interest, if any, shall be paid in the manner provided in Section 2.14. Any payment of PIK Interest shall be considered paid on the date it is due if on such date (1) if PIK Securities (including PIK Securities that are Global Securities) have been issued therefor, such PIK Securities have been authenticated in accordance with the terms of this Indenture and (2) if the payment is made by increasing the principal amount of Global Securities then authenticated, the Trustee has increased the principal amount of Global Securities then authenticated by the required amount.

The Company shall, to the extent permitted by law, pay interest on overdue amounts in cash at the rate per annum set forth in paragraph 1 of the Securities, compounded semiannually, which interest shall accrue from the date such overdue amount was originally due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable on demand. The accrual of such interest on overdue amounts shall be in addition to the continued accrual of interest on the Securities.

Section 4.02 Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Securities are outstanding, the Company will furnish to the Trustee:

(i) within 90 days after the end of each fiscal year, annual financial statements prepared in accordance with GAAP that would be required to be included in Item 8 of Part II of Form 10-K if the Company were required to file such form, together with a "Management's Discussion and Analysis of Financial Condition and Results of Operations" that describes the financial condition and results of operations of the Company and its consolidated Subsidiaries, including a presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of (a) if material, the financial condition and results of operations of the Guarantors separate from the financial condition and results of operations of Restricted Subsidiaries that are not Guarantors, and (b) if material, the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company, and a report on the annual financial statements by the Company's certified independent accountants;

(ii) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, all quarterly financial statements prepared in accordance with GAAP that would be required to be included in Item 1 of Part I of Form 10-Q if the Company were required to file such form, together with a "Management's Discussion and Analysis of Financial Condition and Results of Operations" that describes the financial condition and results of operations of the Company and its consolidated Subsidiaries, including a presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of (a) if material, the financial condition and results of operations of the Guarantors separate from

the financial condition and results of operations of Restricted Subsidiaries that are not Guarantors, and (b) if material, the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company; and

(iii) (a) within five business days after the occurrence of each event that would have been required to be reported in a Current Report on Form 8-K if the Company were required to file this form, reports containing substantially all of the information with respect to the Company and its Subsidiaries that would be required to be filed in a Current Report on Form 8-K pursuant to Sections 1 (other than Item 1.04), 2 (other than Item 2.02) and 4 and Items 5.01 and 5.02 (other than 5.02(c),(d) and (e) and other compensation information) of Form 8-K if the Company had been a reporting company under the Exchange Act and (b) within five business days after notice or knowledge by the Company or any Guarantor of (1) any accidents, explosions, implosions, collapses or flooding at or otherwise related to the Properties that result in (x) any fatality or (y) the trapping of any person in any mine for more than twenty-four hours and (2) the issuance of any closure order pursuant to any Environmental Law or pursuant to any Environmental Permit that could reasonably be expected to directly or indirectly result in the closure or cessation of operation of any mine for a period of more than 5 consecutive days, reports containing substantially all of the information relevant to the event(s) described in this clause (b); *provided*, *however*, that no such report, in the case of clause (a) or (b), will be required to be furnished if the Company determines in good faith that such event is not material to Holders or to the business, assets, operations or financial positions of the Company and its Restricted Subsidiaries, taken as a whole.

Notwithstanding the foregoing, nothing in this Indenture will require (a) the Company to comply with Section 302 or Section 404 or Section 906 of the Sarbanes-Oxley Act of 2002, related Items 307 and 308 of Regulation S-K promulgated by the Commission, or Items 301 or 302 of Regulation S-K or Item 10(e) of Regulation S-K (with respect to any non-GAAP financial measures contained therein), in each case, as in effect on the date of the Issue Date, (b) any reports to contain the separate financial information for Guarantors as contemplated by Rule 3-05, Rule 3-09 or Rule 3-10 of Regulation S-X promulgated by the SEC, (c) any reports to contain information required by Item 601 of Regulation S-K, or (d) any reports to include the schedules identified in Section 5-04 of Regulation S-X under the Securities Act.

(b) References under this Section 4.02 to the laws, rules, forms, items, articles and sections shall be to such laws, rules, forms, items, articles and sections as they exist on the Issue Date, without giving effect to amendments thereto that may take effect after the Issue Date.

(c) The Company will (a) post such financial statements and other information on its public website (or through a public announcement or such other medium as the Company may use at the time) within the time periods specified above

and (b) arrange and participate in quarterly conference calls to discuss its results of operations no later than ten business days following the date on which each of the quarterly and annual reports are made available as provided above; *provided* that the Company may limit the information made available during such conference calls to the extent the Company determines, in its sole discretion, that such information that (x) would not be material to Holders or to the business, assets, operations or financial positions of the Company and its Restricted Subsidiaries, taken as a whole, or (y) would otherwise cause material competitive harm to the business, assets, operations, financial position or prospects of the Company and its Restricted Subsidiaries, taken as a whole. The Company will provide on its public website (or through a public announcement or such other medium as the Company may use at the time) dial-in conference call information substantially concurrently with the posting of such reports as provided for in clause (a) above.

(d) If at any time the Securities are guaranteed by a direct or indirect parent of the Company and such parent has furnished the reports described herein as required by this Section 4.02 as if such parent were the Company (including any financial information required hereby), the Company shall be deemed to have furnished the reports required under this Section 4.02; *provided*, (a) such reports include such disclosure as is reasonably necessary to describe any material differences between the consolidated financial information of such direct or indirect parent and the consolidated financial information of the Company and its Restricted Subsidiaries, or (b) such direct or indirect parent does not conduct, transact or otherwise engage in any material business or operations other than the business and operations conducted through the Company or its ownership of intermediate holding companies and activities incidental thereto. Any information filed with, or furnished to, the SEC within the time periods specified in this Section 4.02 shall be deemed to have been made available as required by this Section 4.02, and to the extent such filings comply with the rules and regulations of the SEC regarding such filings, they will be deemed to comply with the requirements of this Section 4.02. If the Company or a direct or indirect parent of the Company files with or furnishes to the Commission (a) an Annual Report on Form 10-K with respect to a fiscal year that complies in all material respects with the rules and regulations of the SEC regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(i) with respect to the relevant fiscal year; (b) a quarterly report on Form 10-Q with respect to a fiscal quarter that complies in all material respects with the rules and regulations of the Commission regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(ii) with respect to the relevant fiscal quarter; and (c) a current report on Form 8-K with respect to any of the events described in Section 4.02(a)(iii) that complies in all material respects with the rules and regulations of the Commission regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(iii) with respect to such event; *provided*, in each case of clause (a) through (c), that (x) such filings include such disclosure as is reasonably necessary to describe any material differences between the consolidated financial information of such direct or indirect parent and the consolidated financial information of the Company and (y) such direct or indirect parent does not conduct, transact or otherwise engage in any material business or operations other than the business and

operations conducted through the Company or its ownership of intermediate holding companies and activities incidental thereto.

(e) The subsequent filing or making available of any materials or conference call required by this Section 4.02 shall be deemed automatically to cure any Default or Event of Default resulting from the failure to file or make available such materials or conference call within the required time frame.

(f) Delivery of the reports required by this Section 4.02 to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

(g) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

Section 4.03 Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ended December 31, 2013) an Officers' Certificate, stating that, in the course of the performance by the signers thereof of their duties as Officers of the Company, they would normally have knowledge of any default by the Company in the performance of its obligations contained in this Indenture, a review of their activities during the preceding fiscal year has been made under the supervision of the signers with a view to determining whether the Company has kept, observed, performed and fulfilled each condition and covenant under this Indenture and stating whether or not, to the best knowledge of the signers thereof, the Company, as of the date of such Officers' Certificate, is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and if the Company shall be in default, specifying all such Defaults or Events of Defaults, the nature and status thereof of which they may have knowledge and what action the Company is taking or proposes to take with respect thereto.

The Company shall deliver to the Trustee promptly (and in any event within 10 Business Days) after an Officer becomes aware of the occurrence thereof, written notice of any Event of Default, Default or any event which with the giving of notice or the lapse of time, or both, would become an Event of Default in the form of an Officers' Certificate specifying such Default or Event of Default, its status and what action the Company is taking or proposes to take with respect thereto.

Section 4.04 Maintenance of Office or Agency. The Company will maintain an office or agency of the Trustee, Registrar and Paying Agent where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, purchase or redemption and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Corporate Trust Office of the Trustee shall initially be such office or agency for all of the aforesaid purposes. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the office of the Trustee). If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 12.02.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations.

Section 4.05 Delivery of Certain Information. At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or any beneficial owner of Securities, the Company will promptly furnish or cause to be furnished Rule 144A Information (as defined below) to such Holder or any beneficial owner of Securities, or to a prospective purchaser of any such security designated by any such holder, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A under the Securities Act in connection with the resale of any such security. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act or any successor provisions. Whether a Person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

Section 4.06 Existence. The Company will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence in accordance with their respective organizational documents and the rights, licenses, permits, privileges and franchises material to the conduct of its business, except for such rights, licenses, permits, privileges and franchises the loss of which, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, conveyance, transfer or lease permitted under Article V or any Asset Sale or Change of Control not prohibited by the terms of this Indenture; and provided further that this Section 4.06 shall not prohibit the transactions (or the effect thereof) contemplated in the Plan of Reorganization.

Section 4.07 Maintenance of Properties. The Company will, and will cause each of its Subsidiaries to, keep and maintain, in accordance with normal mining practice, all property material to the conduct of its business in good working order and condition (ordinary wear and tear, casualty and condemnation excepted), except in any case where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 4.08 Security Interests.

(a) Subject to the terms, conditions and provisions set forth in the Collateral Documents, the Company and the Guarantors agree that all Senior Priority After-Acquired Property shall be Collateral under this Indenture and all appropriate Collateral Documents and shall take all necessary action, including the execution and delivery of such mortgages, deeds of trust, security instruments, supplements and joinders to security instruments, financing statements, certificates and opinions of counsel (in each case, in accordance with the applicable terms and provisions of this Indenture and the Collateral Documents), so that such Senior Priority After-Acquired Property is subject to the Lien of appropriate Collateral Documents and such Lien is perfected and has priority over other Liens in each case to the extent required by and in accordance with the applicable terms and provisions of this Indenture and the applicable Collateral Documents; provided that notwithstanding the generality of the foregoing, the creation and perfection of security interests of any Collateral that constitutes Real Property shall be governed by Section 4.08(c) and Section 4.08(d); and *provided further* that such mortgages, deeds of trust, security instruments, supplements and joinders to security instruments, financing statements, certificates and opinions of counsel need not be delivered prior to when the corresponding documents are delivered in respect of the Senior-Lien Obligations.

(b) Neither the Company nor any of its Restricted Subsidiaries will take or omit to take any action which would adversely affect or impair in any material respect the Parity Liens in favor of the Collateral Trustee with respect to the Collateral, except as otherwise permitted or required by the Collateral Documents, the Junior Lien Intercreditor Agreement or this Indenture. The Company shall, and shall cause each Guarantor to, at its sole cost and expense, execute and deliver all such agreements and instruments as the Collateral Trustee or the Trustee shall reasonably request to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Collateral Documents. Subject to the terms of the Collateral Documents and the Junior Lien Intercreditor Agreement, the Company shall, and shall cause each Guarantor to, at its sole cost and expense, file (or cause to be filed) any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Parity Liens created by the Collateral Documents at such times and at such places as the Collateral Trustee or the Trustee may reasonably request in accordance with the Collateral Documents and to the extent permitted by applicable law.

(c) Notwithstanding anything to the contrary contained herein, subject to Section 11.08, with respect to any Material Owned Real Property owned by the Company or a Guarantor on the Issue Date and with respect to any Material Owned Real Property acquired by the Company or a Guarantor after the Issue Date (within 90 days of (i) the Issue Date or (ii) the date of the acquisition thereof, as applicable, or such longer period of time as is given by the ABL Agent and the Term Agent for delivery of the corresponding mortgages in respect of the Senior-Lien Obligations):

(i) The Company shall deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with evidence of the completion (or satisfactory

arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the owned real property purported to be covered thereby; and

(ii) The Company shall deliver to the Collateral Trustee upon the request of the Collateral Trustee in its reasonable discretion an opinion(s) of counsel of the Company confirming that the Mortgages create a Lien on the Material Owned Real Property purported to be covered thereby and otherwise covering the enforceability of the relevant Mortgages, which shall be from local counsel in each state where such Material Owned Real Property is located;

provided, however, that the Collateral Trustee shall have the right to extend any deadlines relating to the delivery of the foregoing documentation in its discretion, without the further consent of the Holders.

(d) Notwithstanding anything to the contrary contained herein, subject to Section 11.08, with respect to any Material Leased Real Property leased by the Company or a Guarantor on the Issue Date and with respect to any Material Leased Real Property acquired by the Company or a Guarantor after the Issue Date (within 120 days of (i) the Issue Date or (ii) the date of the acquisition thereof, as applicable, or such longer period of time as is given by the ABL Agent and the Term Agent for delivery of the corresponding leasehold mortgages in respect of the Senior-Lien Obligations):

(i) With respect to Material Leased Real Property where the terms of the lease of such Material Leased Real Property (or applicable state law, if such lease is silent on the issue) do not prohibit a mortgage thereof, the Company shall deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the leased real property purported to be covered thereby;

(ii) With respect to Material Leased Real Property where the terms of the lease of such Material Leased Real Property (or applicable state law, if such lease is silent on the issue) prohibit a mortgage thereof, the Company or the applicable Guarantor shall use commercially reasonable efforts to deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the leased real property purported to be covered thereby; *provided*, that the Company and the Guarantors shall use commercially reasonable efforts to deliver estoppel and consent agreements executed by the lessors of such Material Leased Real Property; *provided*, *further*, that the Company and the Guarantors shall (x) deliver the initial requested form of

consent to the lessor within 30 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or the acquisition of such Material Leased Real Property and (y) initiate communications with the lessors on the status of all such consents within 60 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or the acquisition of such Material Leased Real Property; *provided*, *however*, that if any consent has not been executed and returned to the Collateral Trustee in a form reasonably satisfactory to the Collateral Trustee within 90 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or such acquisition, then the Collateral Trustee shall determine in its reasonable discretion whether the Company or such Guarantor has satisfied its obligations hereunder or whether the Company's or such Guarantor's obligations hereunder shall be extended for an additional period of time; and

(iii) The Company shall deliver to the Collateral Trustee upon the request of the Collateral Trustee in its reasonable discretion an opinion(s) of counsel of the Company confirming that the Mortgages create a Lien on the Material Leased Real Property purported to be covered thereby and otherwise covering the enforceability of the relevant Mortgages, which shall be from local counsel in each state where such Material Leased Real Property is located;

provided, however, that the Collateral Trustee shall have the right to extend any deadlines relating to the delivery of the foregoing documentation in its discretion, without the further consent of the Holders.

Section 4.09 Future Subsidiary Guarantors. The Company shall cause each Domestic Subsidiary that (x) guarantees any Indebtedness of the Company or any of its Restricted Subsidiaries under any Credit Agreement or (y) if no Senior-Lien Obligations are then outstanding, otherwise guarantees any Indebtedness of the Company in a principal amount greater than $5.0 million to (a) promptly execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit E pursuant to which such Domestic Subsidiary shall Guarantee the Securities Obligations on the same secured basis, (b) promptly execute and deliver to the Trustee and the Collateral Trustee a joinder to the Junior Lien Intercreditor Agreement and (c) within 45 days (or such longer period(s) as provided for in Section 4.08(c) and/or Section 4.08(d)) of entering into such Guarantee, execute and deliver to the Collateral Trustee such Collateral Documents or supplements or joinders thereto as are necessary for such Domestic Subsidiary to become a grantor or mortgagor under all applicable Collateral Documents and take all actions so that the Lien of the Collateral Documents on the property and assets of such Domestic Subsidiary are perfected and have priority over other Liens to the extent required by, and in accordance with, the applicable terms and provisions of this Indenture and the Collateral Documents.

Section 4.10 Incurrence of Indebtedness or Preferred Stock.

(a) The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to Incur any Indebtedness, including Acquired Indebtedness, or permit any Restricted Subsidiary to Incur Preferred Stock, except that:

(i) the Company or any Restricted Subsidiary may Incur Indebtedness, including Acquired Indebtedness, and

(ii) any Restricted Subsidiary may Incur Preferred Stock,

if, at the time of and immediately after giving effect to the Incurrence thereof and the receipt and application of the proceeds therefrom, the Fixed Charge Coverage Ratio is not less than 2.0:1 (the "Fixed Charge Coverage Ratio Test"), *provided* that Indebtedness or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors may not exceed more than $10,000,000 in the aggregate at any time;

(b) Notwithstanding the provisions of Section 4.10(a) hereof, the Company and, to the extent provided below, any Restricted Subsidiary may Incur the following ("Permitted Indebtedness"):

(i) Indebtedness of the Company and the Guarantors pursuant to the Term Facility; *provided* that the aggregate principal amount of such Indebtedness at any time outstanding does not exceed (i) $250,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced, refunded, renewed or extended) less (iii) any amount of such Indebtedness permanently repaid as provided under Section 4.13 hereof;

(ii) Indebtedness of the Company and the Guarantors pursuant to the ABL Credit Agreement; *provided* that the aggregate principal amount of such Indebtedness at any time outstanding does not exceed $125,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced, refunded, renewed or extended), less (iii) any amount of such Indebtedness permanently repaid that effects a corresponding permanent commitment reduction thereunder as provided under Section 4.13 hereof;

(iii) Indebtedness under the Letter of Credit Facility; *provided* that the aggregate amount of such Indebtedness at any time outstanding shall not exceed $201,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced, refunded, renewed or extended), less (iii) any amount of such Indebtedness permanently repaid as provided under Section 4.13 hereof;

(iv) Indebtedness of the Company pursuant to the Securities (other than Additional Securities) and any PIK Securities issued from time to time as payment of PIK Interest on the Securities and any increase in the principal amount of Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee (including Additional Securities) and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the Securities and any increase in the principal amount of Securities as a result of the payment of PIK Interest;

(v) (i) Indebtedness of the Company or any Restricted Subsidiary owed to the Company or any Restricted Subsidiary so long as such Indebtedness continues to be owed to the Company or a Restricted Subsidiary and which, if the obligor is the Company or a Guarantor and if the Indebtedness is owed to a non-Guarantor, is subordinated in right of payment to the Securities and (ii) Preferred Stock of a Restricted Subsidiary so long as such Preferred Stock continues to be held by the Company or a Guarantor; *provided* that, at such time as any such outstanding Indebtedness or Preferred Stock ceases to be owed to or held by, as the case may be, the Company or a Restricted Subsidiary (or Guarantor, in the case of Preferred Stock), such Indebtedness or Preferred Stock shall be deemed to be Incurred and not permitted by this Section 4.10(b)(v);

(vi) Indebtedness ("Permitted Refinancing Indebtedness") constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, "refinance") then outstanding Indebtedness Incurred under Section 4.10(a) hereof or clauses (iv), (vi), (x), (xiii), or (xiv) of this Section 4.10(b) in an amount not to exceed the principal amount of the Indebtedness so refinanced, plus applicable premiums, fees and expenses incurred in connection with the repayment of such Indebtedness and the Incurrence of the Permitted Refinancing Indebtedness; *provided* that:

(A) in case the Securities are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Securities, the new Indebtedness, by its terms or by the terms of any agreement or instrument

pursuant to which it is outstanding, is made *pari passu* with, or subordinated in right of payment to, the remaining Securities;

(B) in case the Indebtedness to be refinanced is subordinated in right of payment to the Securities, the new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is made subordinate in right of payment to the Securities at least to the extent that the Indebtedness to be refinanced is subordinated to the Securities;

(C) the terms relating to maturity and amortization are no less favorable in any material respect to the Holders of the Securities than the terms of any agreement or instrument governing the Indebtedness being refinanced; and

(D) in no event may Indebtedness of the Company or any Guarantor be refinanced pursuant to this Section 4.10(b)(vi) by means of any Indebtedness of any Restricted Subsidiary that is not a Guarantor;

(vii) Hedging Agreements of the Company or any Restricted Subsidiary entered into in the ordinary course of business and not for speculation, ABL Bank Product Obligations and LC/Term Cash Management Obligations;

(viii) Indebtedness of the Company or any Restricted Subsidiary in the form of bank guarantees, letters of credit and bankers' acceptances (except to the extent issued under the ABL Credit Agreement or the LC/Term Credit Agreement) and bid, performance, reclamation, statutory obligation, surety, appeal and performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business;

(ix) Indebtedness arising from agreements of the Company or any Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;

(x) Existing Indebtedness;

(xi) Indebtedness of the Company or any Guarantor consisting of guarantees of Indebtedness of the Company or any Guarantor otherwise permitted under this Section 4.10; *provided* that if the Indebtedness guaranteed is subordinate to the Securities, then such guarantee shall be subordinate to the Securities or the relevant Guarantee of the Securities, as the case may be, to the same extent;

(xii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds

or Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in connection with deposit accounts, in each case in the ordinary course of business;

(xiii) Indebtedness of the Company or any Restricted Subsidiary Incurred to finance the acquisition, construction, development or improvement of any assets, including Capital Leases and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Indebtedness Incurred under this Section 4.10(b)(xiii), together with any Permitted Refinancing Indebtedness Incurred in respect thereof under clause (vi) of this Section 4.10(b), may not exceed the greater of (x) $25,000,000 or (y) 1.25% of Consolidated Tangible Assets;

(xiv) Indebtedness of the Company Incurred pursuant to Additional Securities issued in accordance with a management compensation plan or program (the "Management Incentive Securities") and any PIK Securities issued from time to time as payment of PIK Interest on such Management Incentive Securities and any increase in the principal amount of Management Incentive Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the Management Incentive Securities and any increase in the principal amount of Management Incentive Securities as a result of the payment of PIK Interest Incurred on or after the Issue Date; *provided* that the aggregate principal amount of Management Incentive Securities issued on or after the Issue Date shall not exceed $25.0 million;

(xv) Indebtedness of Foreign Restricted Subsidiaries Incurred on or after the Issue Date in an aggregate principal amount not to exceed $10,000,000 outstanding at any time;

(xvi) Indebtedness of the Company or any Restricted Subsidiary pursuant to the issuance of Additional Securities solely in connection with a Specified Cure and any PIK Securities issued from time to time as payment of PIK Interest on such Additional Securities and any increase in the principal amount of such Additional Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the such Additional Securities and any increase in the principal amount of such Additional Securities as a result of the payment of PIK Interest Incurred on or after the Issue Date; *provided* that the Indebtedness Incurred under this Section 4.10(b)(xvi) shall not exceed $75,000,000 outstanding at any time;

(xvii) Indebtedness of the Company or any Restricted Subsidiary that is Junior Lien Debt or that is unsecured Subordinated Indebtedness of the Company

or any Restricted Subsidiary (which shall be subordinated to the Securities and any Parity Lien Debt on terms substantially similar to the terms on which such Subordinated Indebtedness shall be subordinated to the Priority Lien Debt), which together with any other Indebtedness Incurred under this Section 4.10(b)(xvii) shall not to exceed $75,000,000 outstanding at any time;

(xviii) Indebtedness of the Company or any Restricted Subsidiary Incurred after the Issue Date not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed the greater of (x) $15,000,000 and (y) 1.0% of Consolidated Tangible Assets;

(xix) Indebtedness of the Company or any Restricted Subsidiary consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply or other arrangements.

(c) Notwithstanding any other provision of this Section 4.10, for the purposes of determining compliance with this Section 4.10, increases in Indebtedness solely due to fluctuations in the exchange rates of currencies shall not be deemed to exceed the maximum amount that the Company or a Restricted Subsidiary may Incur under this Section 4.10. For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

Furthermore, for the purposes of determining compliance with this Section 4.10, in the event that an item of Indebtedness or Preferred Stock meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (i) through (xix) of Section 4.10(b) hereof, or is entitled to be incurred pursuant to Section 4.10(a) hereof, the Company shall, in its sole discretion, classify such item in any manner that complies with this Section 4.10 and such Indebtedness or Preferred Stock shall be treated as having been incurred pursuant to the clauses of Permitted Indebtedness or paragraph (a) hereof, as the case may be, designated by the Company, and from time to time may change the classification of an item of Indebtedness (or any portion thereof) to any other type of Indebtedness permitted under this Section 4.10 at any time, including pursuant to clause (a) hereof; *provided* that Indebtedness under the Term Facility, the ABL Credit Agreement and the Letter of Credit Facility outstanding on the Issue Date shall

be deemed at all times to be incurred under clause (i), (ii) and (iii), respectively, of Section 4.10(b) hereof.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness or Preferred Stock of the same class shall not be deemed to be an Incurrence of Indebtedness or Preferred Stock for purposes of this Section 4.10 but shall be included in subsequent calculations of the amount of outstanding Indebtedness for purposes of Incurring future Indebtedness; *provided* that such accrual, accretion, amortization or payment is included in the calculation of Fixed Charges.

Neither the Company nor any Guarantor shall Incur any Indebtedness that is subordinated in right of payment to other Indebtedness of the Company or the Guarantor unless such Indebtedness is also subordinated in right of payment to the Securities or the relevant Guarantee on substantially identical terms.

Section 4.11 Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively "Restricted Payments"):

(i) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Company's Qualified Equity Interests) held by Persons other than the Company or any of its Restricted Subsidiaries;

(ii) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Company held by Persons other than the Company or any of its Restricted Subsidiaries that is also a Guarantor;

(iii) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Subordinated Indebtedness (other than a payment of interest or principal at Stated Maturity thereof or the purchase, repurchase or other acquisition of any Subordinated Indebtedness purchased in anticipation of satisfying a scheduled maturity sinking fund or amortization or other installment obligation, in each case due within one year of the date of acquisition); or

(iv) make any Investment other than a Permitted Investment;

unless, at the time of, and after giving effect to, the proposed Restricted Payment:

(A) no Default has occurred and is continuing,

(B) the Company could Incur at least $1.00 of Indebtedness under the Fixed Charge Coverage Ratio Test, and

(C) the aggregate amount expended for all Restricted Payments made on or after the Issue Date would not, subject to Section 4.11(c), exceed the sum of:

(1) 50% of the aggregate amount of the Consolidated Net Income (or, if the Consolidated Net Income is a loss, minus 100% of the amount of the loss) accrued on a cumulative basis during the period, taken as one accounting period, beginning on the first day of the fiscal quarter in which the Issue Date occurs and ending on the last day of the Company's most recently completed fiscal quarter for which internal financial statements are available, plus

(2) subject to Section 4.11(c), the aggregate net cash proceeds, including cash proceeds and the Fair Market Value of property other than cash, received by the Company (other than from a Subsidiary) after the Issue Date:

(x) from the issuance and sale of its Qualified Equity Interests, including by way of issuance of its Disqualified Equity Interests or Indebtedness to the extent since converted into Qualified Equity Interests of the Company, or

(y) as a contribution to its common equity, plus

(3) an amount equal to the sum, for all Unrestricted Subsidiaries, of the following:

(x) the cash return, after the Issue Date, on Investments in an Unrestricted Subsidiary made after the Issue Date pursuant to this Section 4.11(a) as a result of any sale for cash, repayment, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income), plus

(y) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the assets less liabilities of an Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary,

not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments made after the Issue Date by the Company and its Restricted Subsidiaries in such Unrestricted Subsidiary pursuant to this Section 4.11(a), plus

(4) the cash return, after the Issue Date, on any other Investment made after the Issue Date pursuant to this Section 4.11(a), as a result of any sale for cash, repayment, return, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income), not to exceed the amount of such Investment so made, plus

(5) any amount which previously qualified as a Restricted Payment made under Section 4.11(a) on account of any guarantee entered into by the Company or any Restricted Subsidiary; *provided* that such guarantee has not been called upon and the obligation arising under such guarantee no longer exists.

The amount of any Restricted Payment, if other than in cash, shall be the Fair Market Value of the assets or securities proposed to be transferred or issued to or by the Company or such Restricted Subsidiary, as the case may be.

(b) The provisions of Section 4.11(a) hereof shall not prohibit:

(i) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with Section 4.11(a) hereof;

(ii) dividends or distributions by a Restricted Subsidiary payable, on a pro rata basis or on a basis more favorable to the Company, to all Holders of any class of Equity Interests of such Restricted Subsidiary a majority of which is held, directly or indirectly through Restricted Subsidiaries, by the Company;

(iii) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Subordinated Indebtedness of the Company or a Guarantor with the proceeds of, or in exchange for, Permitted Refinancing Indebtedness;

(iv) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company in exchange for, or out of the proceeds of a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company or of a contribution to the common equity of the Company;

(v) the repayment, redemption, repurchase, defeasance or other acquisition or retirement of Subordinated Indebtedness of the Company or any Guarantor in exchange for, or out of the proceeds of, a cash or non-cash contribution to the capital of the Company or a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company;

(vi) any Investment acquired as a capital contribution to the Company, or made in exchange for, or out of the net cash proceeds of, a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of Qualified Equity Interests of the Company;

(vii) amounts paid for the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company or any of its Restricted Subsidiaries held by current or former officers, directors or employees (or their

estates or beneficiaries under their estates or the applicable agreements or employee benefit plans), of the Company or any of its Restricted Subsidiaries pursuant to any agreement or employee benefit plan under which the Equity Interests were issued; *provided* that the aggregate consideration paid therefor (other than in the form of Equity Interests of the Company) in any twelve-month period after the Issue Date does not exceed an aggregate amount of $5,000,000 (with unused amounts in any twelve-month period being permitted to carry over for the two succeeding twelve-month periods, so long as the aggregate consideration paid does not exceed an aggregate amount of $10,000,000 in any twelve-month period);

(viii) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness or Disqualified Stock of the Company or a Guarantor at a purchase price not greater than 101% of the principal amount thereof or liquidation preference in the event of (x) a change of control pursuant to a provision no more favorable to the holders thereof than Section 4.15 hereof or (y) an asset sale pursuant to a provision no more favorable to the holders thereof than hereof, provided that, in each case, prior to the repurchase the Company has made a Change of Control Repurchase Offer or Asset Sale Offer, to the extent required by Section 4.15 or Section 4.13 hereof, as the case may be, and repurchased all Securities issued hereunder that were validly tendered for payment in connection with such offer to purchase;

(ix) Restricted Payments not otherwise permitted hereby in an aggregate amount not to exceed $5,000,000; *provided* that, in the case of clauses (vi), (vii), (viii) and (ix), no Default has occurred and is continuing or would occur as a result thereof;

(x) the repurchase of Management Incentive Securities deemed to occur upon the withholding or repurchase of a portion of Management Incentive Securities (including such Securities issued as capitalized interest payments) issued under a management compensation plan or program of the Company and its Subsidiaries to cover tax obligations of such persons in respect of such issuance or vesting of rights thereunder and accrual of interest thereon;

(xi) the delivery of shares of Class A Common Stock upon exercise of the Rights Offering Warrants in accordance with their terms (including any net share exercises and any tax withholding in connection therewith) and to effectuate repurchases of shares of Class A Common Stock deemed to occur upon the withholding of a portion of such shares of Class A Common Stock issued upon the exercise of the Management Rights Offering Warrants issued under a management compensation program of the Company and its Subsidiaries to cover tax obligations of such persons in respect of exercise of such warrants in accordance with their terms; and

(xii) Restricted Payments in connection with the transactions contemplated by the Plan of Reorganization or as set forth in the Plan Confirmation Order.

(c) Proceeds of the issuance of Qualified Equity Interests shall be included under clause (C) of Section 4.11(a) hereof only to the extent they are not applied as described in clause (iv), (v) or (vi) of Section 4.11(b) hereof. Restricted Payments permitted pursuant to clauses (ii), (iii), (iv), (v), (vi) and (xii) of Section 4.11(b) hereof shall not be included in making the calculations under clause (C) of Section 4.11(a) hereof.

(d) For purposes of determining compliance with this Section 4.11, in the event that a Restricted Payment permitted pursuant to this Section 4.11 or a Permitted Investment meets the criteria of more than one of the categories of Restricted Payment described in clauses (i) through (xii) of Section 4.11(b) hereof or one or more clauses of the definition of "Permitted Investments," the Company shall be permitted to classify such Restricted Payment or Permitted Investment on the date it is made, or later reclassify all or a portion of such Restricted Payment or Permitted Investment, in any manner that complies with this Section 4.11, and such Restricted Payment or Permitted Investment shall be treated as having been made pursuant to only one of such clauses of this Section 4.11 or of the definition of "Permitted Investments." The amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Section 4.12 Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) Except as provided in Section 4.12(b) hereof, the Company shall not, and shall not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on its Equity Interests to the Company or any Restricted Subsidiary;

(ii) pay any Indebtedness owed to the Company or any other Restricted Subsidiary;

(iii) make loans or advances to the Company or any other Restricted Subsidiary; or

(iv) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The provisions of Section 4.12(a) hereof shall not apply to any encumbrances or restrictions:

(i) existing on the Issue Date in the ABL Credit Agreement, the LC/Term Credit Agreement, the Indenture or the Existing Indebtedness or any other agreements in effect on the Issue Date, and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing; *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, in the good faith judgment of the Company, no less favorable in any material respect (taken as a whole) to the Holders of the Securities than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

(ii) existing pursuant to the Indenture, the Securities or the Guarantees;

(iii) existing under or by reason of applicable law, rule, regulation or order;

(iv) existing under any agreements or other instruments of, or with respect to:

(A) any Person, or the property or assets of any Person, at the time the Person is acquired by the Company or any Restricted Subsidiary; or

(B) any Unrestricted Subsidiary at the time it is designated or is deemed to become a Restricted Subsidiary;

which encumbrances or restrictions referred to in clause (iv) of this Section 4.12(b): (i) are not applicable to any other Person or the property or assets of any other Person and (ii) were not put in place in anticipation of such event and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing, *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, in the good faith judgment of the Company, no less favorable in any material respect to the Holders of the Securities than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

(v) of the type described in clause (iv) of Section 4.12(a) hereof arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, joint venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or

assets of, the Company or any Restricted Subsidiary permitted pursuant to the terms hereof;

(vi) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Restricted Subsidiary pending closing of such sale or disposition that is permitted pursuant to the terms hereof;

(vii) existing pursuant to Permitted Refinancing Indebtedness; *provided* that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are, taken as a whole, no less favorable in any material respect to the Holders of the Securities than those contained in the agreements governing the Indebtedness being refinanced;

(viii) consisting of restrictions on cash or other deposits or net worth imposed by customers, suppliers or required by insurance surety bonding companies, in each case, in the ordinary course of business;

(ix) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Capital Leases or operating leases that impose encumbrances or restrictions discussed in clause (iv) of Section 4.12(a) hereof on the property so acquired or covered thereby;

(x) existing pursuant to any Indebtedness Incurred by, or other agreement of, a Foreign Restricted Subsidiary, which restrictions are customary for a financing or agreement of such type, and which are otherwise permitted under clause (xv) of the definition of "Permitted Indebtedness" in Section 4.10(b) hereof;

(xi) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction; or

(xii) existing pursuant to any agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Issue Date under Section 4.10 hereof if the encumbrance and restrictions contained in any such agreement or instrument are, taken as a whole, no less favorable in any material respect (taken as a whole) to the Holders of the Securities than the encumbrances and restrictions contained in the ABL Credit Agreement and the LC/Term Credit Agreement in effect as of the Issue Date (as determined in good faith by the Company).

Section 4.13 Asset Sales.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, consummate any Asset Sale unless the following conditions are met:

(i) The Asset Sale is for at least Fair Market Value.

(ii) At least 75% of the consideration received by the Company or its Restricted Subsidiaries consists of cash or Cash Equivalents. For purposes of this clause (ii), each of the following shall be considered cash or Cash Equivalents:

(A) the assumption by the purchaser of Indebtedness or other obligations or liabilities (as shown on the Company's most recent balance sheet or in the notes thereto) (other than Subordinated Indebtedness or other obligations or liabilities subordinated in right of payment to the Securities) of the Company or a Restricted Subsidiary pursuant to operation of law or a customary novation agreement,

(B) Additional Assets,

(C) instruments, notes, securities or other obligations received by the Company or such Restricted Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Company or such Restricted Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received, and

(D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in the Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (D) that is at that time outstanding, not to exceed the greater of (x) $25,000,000 and (y) 1.0% of the Company's Consolidated Tangible Assets at the time of receipt of such outstanding Designated Non-cash Consideration (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

(iii) Within 365 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Net Cash Proceeds may be used

(A) to permanently repay Indebtedness of the Company or a Guarantor constituting Priority Lien Obligations (and, if the Indebtedness repaid is revolving credit Indebtedness or Indebtedness in respect of letters of credit, to correspondingly reduce commitments with respect thereto or otherwise cash collateral any such Priority Lien Obligations); *provided* that the Lien on the assets that are the subject of the Asset Sale is senior in priority to the Lien securing the Securities Obligations pursuant to the terms of the Junior Lien Intercreditor Agreement, or

(B) to acquire Additional Assets or to make capital expenditures in a Permitted Business of the Company or one or more Restricted Subsidiaries that is a Guarantor.

For the avoidance of doubt, pending application thereof in accordance with this Section 4.13(a), the Company or any Restricted Subsidiary may use any Net Cash Proceeds from an Asset Sale for general corporate purposes (including a reduction in borrowings under any revolving credit facility) prior to the end of the 365-day period referred to in the first sentence of this Section 4.13(a)(iii). In addition, the Company or the applicable Restricted Subsidiary, as the case may be, will take all necessary action to promptly grant to the Collateral Trustee a perfected security interest, subject to any Permitted Liens, on such property or assets acquired or constructed with Net Cash Proceeds of any Asset Sale on the terms set forth in, and to the extent required by, this Indenture and the Collateral Documents.

(iv) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (iii) of this Section 4.13(a) within 365 days of the Asset Sale constitute "Excess Proceeds". Excess Proceeds of less than $25,000,000 shall be carried forward and accumulated. Subject to the Junior Lien Intercreditor Agreement, the aggregate amount of the accumulated Excess Proceeds equals or exceeds $25,000,000, the Company shall, within 30 days, make an offer to all Holders of the Securities (an "Asset Sale Offer") to purchase Securities having a principal amount equal to

(A) accumulated Excess Proceeds, multiplied by

(B) a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the Securities and (y) the denominator of which is equal to the outstanding aggregate principal amount of the Securities and all other Parity Lien Debt similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale, rounded down to the nearest $1. The purchase price for the Securities in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) shall be as set forth in Schedule A hereto, *plus* accrued and unpaid interest, if any, to the date of repurchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer is for less than all of the outstanding Securities and Securities in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the offer, the Company shall purchase Securities having an aggregate principal amount equal to the purchase amount on a pro rata basis, with adjustments so that only Securities in multiples of $1 principal amount shall be purchased. Upon completion of the Asset Sale Offer, Excess Proceeds shall be reset at zero, and any Excess Proceeds remaining after consummation of the Asset Sale Offer may be used for any purpose not otherwise prohibited by the terms hereof.

(b) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent such laws or regulations are applicable in connection with the repurchase of the Securities pursuant to

an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(c) Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee as provided above, the Company shall deliver to the Trustee an Officers' Certificate certifying as to (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Proceeds from the Asset Sales pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.13(b). On such date, the Company shall also irrevocably deposit with the Trustee or with a paying agent (or, if the Company or a Wholly-Owned Restricted Subsidiary is acting as the Paying Agent, segregate and hold in trust) an amount equal to the Excess Proceeds to be invested in Cash Equivalents, as directed in writing by the Company, and to be held for payment in accordance with the provisions of this Section 4.13. Upon the expiration of the period for which the Asset Sale Offer remains open (the "Offer Period"), the Company shall deliver to the Trustee for cancellation the Securities or portions thereof that have been properly tendered to and are to be accepted by the Company. The Trustee (or the Paying Agent, if not the Trustee) shall, on the date of purchase, mail or deliver payment to each tendering Holder in the amount of the purchase price. In the event that the Excess Proceeds delivered by the Company to the Trustee are greater than the purchase price of the Securities tendered, the Trustee shall deliver the excess to the Company immediately after the expiration of the Offer Period for application in accordance with Section 4.13.

(d) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the purchase date. Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security which was delivered by the Holder for purchase and a statement that such Holder is withdrawing his election to have such Security purchased. If at the end of the Offer Period more Securities (and such Parity Lien Debt) are tendered pursuant to an Asset Sale Offer than the Company is required to purchase, selection of such Securities for purchase shall be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which such Securities are listed, or if such Securities are not so listed, on a pro rata basis, by lot or by such other method as the Trustee shall deem fair and appropriate (and in such manner as complies with applicable legal requirements). Selection of such Parity Lien Debt shall be made pursuant to the terms of such Parity Lien Debt.

(e) Notices of an Asset Sale Offer shall be delivered electronically or mailed first class mail, postage prepaid, at least 30 but not more than 60 days before the purchase date to each Holder of Securities at such Holder's registered address. If any Security is to

be purchased in part only, any notice of purchase that relates to such Security shall state the portion of the principal amount thereof that has been or is to be purchased.

Section 4.14 Transactions with Affiliates.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Company or any Restricted Subsidiary (a "Related Party Transaction") unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Company) to the Company or the relevant Restricted Subsidiary than those that could be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate of the Company.

(b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of $15,000,000 shall first be approved by a majority of the Board of Directors of the Company who are disinterested in the subject matter of the transaction pursuant to a resolution of such Board of Directors. Prior to entering into any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of $75,000,000, the Company shall in addition obtain a favorable written opinion from a nationally recognized investment banking firm as to the fairness of the transaction to the Company and its Restricted Subsidiaries from a financial point of view.

(c) The provisions of clauses (a) and (b) of this Section 4.14 shall not apply to:

(i) any transaction between the Company and any of its Restricted Subsidiaries or between Restricted Subsidiaries of the Company;

(ii) the payment of reasonable regular fees to directors of the Company who are not employees of the Company;

(iii) any Restricted Payments of a type described in clauses (i) or (ii) of Section 4.11(a) hereof if permitted thereunder;

(iv) any issuance of Equity Interests (other than Disqualified Equity Interests) of the Company;

(v) any issuance of Management Incentive Securities;

(vi) any issuances of Indebtedness of the Company or any of its Restricted Securities secured by a Lien or of Subordinated Indebtedness of the Company or any of its Restricted Securities to the Backstop Parties or one or more of their respective Affiliates;

(vii) loans or advances to officers, directors or employees of the Company in the ordinary course of business of the Company or its Restricted

Subsidiaries or guarantees in respect thereof or otherwise made on their behalf (including payment on such guarantees) and only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;

(viii) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries with officers and employees of the Company or any of its Restricted Subsidiaries that are Affiliates of the Company and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock option or similar plans) so long as such agreement has been entered into in the ordinary course of business;

(ix) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate solely because the Company, directly or through a Restricted Subsidiary, owns Equity Interests in such Person or owes Indebtedness to such Person;

(x) transactions arising under any contract, agreement, instrument or arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new agreements, taken as a whole at the time such agreements are executed, are not materially less favorable to the Company and its Restricted Subsidiaries than those in effect on the date of the Indenture; and

(xi) Transactions, arrangements, fee reimbursements and indemnities specifically and expressly permitted between or among such parties under the Plan of Reorganization; and the consummation of the transactions contemplated by the Plan of Reorganization and the Plan Confirmation Order.

Section 4.15 Offer to Repurchase upon Change of Control or Public Offering.

(a) Upon a Change of Control or Public Offering, each Holder shall have the right to require the Company to repurchase all or any part of such Holder's Securities at a purchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, *plus* accrued and unpaid interest, if any, to the date of repurchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant interest payment date), in accordance with the terms contemplated in this Section 4.15, which repurchase price shall be deposited with the Paying Agent in accordance with Section 2.04 at the consummation of such Change of Control or Public Offering.

(b) Each Change of Control Repurchase Offer or Public Offering Repurchase Offer shall be made in advance of such Change of Control or Public Offering, and shall be conditioned upon such Change of Control or Public Offering.

(c) The Company shall mail (1) in the case of a Change of Control, a notice (a "Change of Control Repurchase Offer") no later than the earliest to occur of (x) the date on which the Company has a binding agreement in place pursuant to which the Company reasonably expects that a Change of Control will occur within the next 30 days (which shall be no later than the date on which all conditions precedent for the consummation of the transaction that constitutes a Change of Control shall have been met) and (z) the date on which such Change of Control takes place; and (2) in the case of a Public Offering, a notice (a "Public Offering Repurchase Offer") no later than the earliest to occur of (x) the date on which the Company reasonably expects that a Public Offering will occur within the next 30 days (which shall be no later than the date on which the Company commences a "roadshow" for such Public Offering) and (y) the date on which such Public Offering takes place, in either case, to each Holder with a copy to the Trustee stating:

(i) in the event the Change of Control or Public Offering is consummated, such Holder shall have the right to require the Company to repurchase such Holder's Securities at a repurchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, plus accrued and unpaid interest to the repurchase date;

(ii) the circumstances and relevant facts and financial information regarding such Change of Control or Public Offering;

(iii) that the Change of Control Repurchase Offer or the Public Offering Repurchase Offer, as the case may be, is conditioned upon the consummation of such Change of Control or the Public Offering;

(iv) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed; provided the repurchase date may be extended or modified so that such repurchase date may be the date of the consummation of the Change of Control or the Public Offering); and

(v) the instructions determined by the Company, consistent with this Section 4.15, that a Holder must follow in order to have its Securities purchased.

(d) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the purchase date. The Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Security purchased. Holders whose Securities are purchased only in part shall be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered.

(e) On the purchase date, all Securities purchased by the Company under this Section shall be delivered to the Trustee for cancellation, and the Company shall pay the purchase price *plus* accrued and unpaid interest to the Holders entitled thereto.

(f) Notwithstanding the foregoing provisions of this Section, the Company shall not be required to make a Change of Control Repurchase Offer upon a Change of Control if a third party makes the Change of Control Repurchase Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 applicable to a Change of Control Repurchase Offer made by the Company and purchases all Securities validly tendered and not withdrawn under such Change of Control Repurchase Offer.

(g) Notwithstanding the foregoing provisions of this Section, the Holders of a majority in aggregate principal amount of the Securities then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) may permit or require the repurchase price for a Change of Control Repurchase Offer or a Public Offering Repurchase Offer to be paid in part or in whole in non-cash consideration of the Company and further require that the Company obtain a fair value opinion of a nationally recognized investment bank consented to by the Holders in such vote that such non-cash consideration is equivalent in value to that portion of the repurchase price otherwise payable in cash under this Section 4.15.

(h) Securities repurchased by the Company pursuant to a Change of Control Repurchase Offer or a Public Offering Repurchase Offer, as the case may be, will have the status of Securities issued but not outstanding or will be retired and canceled at the option of the Company. Securities purchased by a third party pursuant to the preceding clause (f) will have the status of Securities issued and outstanding.

(i) At the time the Company delivers Securities to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Securities are to be accepted by the Company pursuant to and in accordance with the terms of this Section 4.15. A Security shall be deemed to have been accepted for purchase at the time the Trustee, directly or through an agent, mails or delivers payment therefor to the surrendering Holder.

(j) Prior to any Change of Control Repurchase Offer or Public Offering Repurchase Offer, the Company shall deliver to the Trustee an Officers' Certificate stating that all conditions precedent contained herein to the right of the Company to make such offer have been complied with.

(k) The Company shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Securities pursuant to this Section. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.15, the Company shall comply with the applicable securities laws and

regulations and shall not be deemed to have breached its obligations under this Section by virtue thereof.

Section 4.16 Liens.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, Incur or suffer to exist any Lien on or with respect to the Collateral other than Permitted Liens. Subject to the immediately preceding sentence, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, Incur or suffer to exist any Lien, other than Permitted Liens, on any asset or property of the Company or any such Restricted Subsidiary of the Company, or any income or profits therefrom, or assign or convey any right to receive income therefrom, whether owned at the Issue Date or thereafter acquired unless the Securities Obligations are secured equally and ratably with (or, in the case of Subordinated Indebtedness, prior or senior thereto, with the same relative priority as the Securities Obligations shall have with respect to such Subordinated Indebtedness) the obligation or liability secured by such Lien.

(b) Any Lien on property securing the Secured Obligations for the benefit of the Secured Parties shall be automatically and unconditionally released and discharged in accordance with the terms and provisions of the Junior Lien Intercreditor Agreement and, to the extent applicable and not in conflict with the Junior Lien Intercreditor Agreement, this Indenture and the other applicable Collateral Documents.

(c) For purposes of determining compliance with this covenant, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in clauses (1) through (29) of the definition of "Permitted Liens" but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens described in clauses (1) through (29) of the definition of "Permitted Liens", the Company shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien or such item of Indebtedness secured by such Lien in one of the clauses of the definition of "Permitted Liens" and such Lien securing such item of Indebtedness will be treated as being Incurred or existing pursuant to only one of such clauses.

(d) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest or fees, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Company, the payment of dividends on Preferred Stock in the form of additional shares

of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (8) of the definition of "Indebtedness".

Section 4.17 Payments for Consent. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Securityholder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, the Collateral Documents or the Securities unless such consideration is offered to be paid and is paid to all Holders of the Securities that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement. Notwithstanding the foregoing, in the case of an offering of securities to Securityholders by the Company or any of its Restricted Subsidiaries (including, without limitation, an exchange offer) in which a consent, waiver or amendment is sought, if such offering is intended to be exempt from the registration requirements of the Securities Act, the Company and its Restricted Subsidiaries may offer and issue such securities only to Securityholders who are eligible to receive such securities in accordance with such exemption from registration. In addition, the Company will not be required to, nor will any of its Restricted Subsidiaries be required to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Securityholder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, the Collateral Documents or the Securities that has the purpose of permitting a specified transaction under the terms and conditions of this Indenture that was otherwise permitted under the terms and conditions of the LC/Term Credit Agreement or the ABL Credit Agreement or any other Senior Lender Documents (as defined in the Junior Lien Intercreditor Agreement).

ARTICLE V
SUCCESSOR CORPORATION

Section 5.01 When the Company May Merge or Transfer Assets. The Company shall not consolidate with or merge with or into any other Person or convey, transfer or lease all or substantially all of its properties and assets to any Person, unless:

(a) (i) the Company shall be the resulting or surviving corporation or (ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, transfer or lease all or substantially all of the properties and assets of the Company (x) shall be a corporation organized and validly existing under the laws of the United States or any State thereof or the District of Columbia, and (y) shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, all of the obligations of the Company under the Securities, this Indenture and the Collateral Documents;

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(c) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Article V and that all conditions precedent herein provided for relating to such transaction have been complied with; and

(d) immediately after giving pro forma effect to such transaction, as if such transaction had occurred at the beginning of the applicable four-quarter period (and treating any Indebtedness which becomes an obligation of the successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), either

(i) the successor Company would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio Test set forth in Section 4.10(a); or

(ii) the Fixed Charge Coverage Ratio for the successor Company and its Restricted Subsidiaries would be at least equal to such ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

provided, that clauses (i) and (ii) of this Section 5.01(d) do not apply (i) to the consolidation, merger, sale, conveyance, transfer or other disposition of the Company with, into or to a Wholly Owned Restricted Subsidiary or the consolidation, merger, sale, conveyance, transfer or other disposition of a Wholly Owned Restricted Subsidiary with, into or to the Company or (ii) if, in the good faith determination of the Board of Directors of the Company, whose determination is evidenced by a Board Resolution, the sole purpose of the transaction is to change the jurisdiction of incorporation of the Company.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the properties and assets of one or more Subsidiaries (other than to the Company or another Subsidiary), which, if such assets were owned by the Company would constitute all or substantially all of the properties and assets of the Company shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

Section 5.02 Successor Corporation to be Substituted. The successor corporation formed by such consolidation or into which the Company is merged or the successor corporation to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor had been named as the Company herein; and thereafter the Company shall be discharged from all obligations and covenants under this Indenture, the Securities and the Collateral Documents. Subject to Section 9.06, the Company, the Trustee (upon receipt of a Company Order) and the successor corporation shall enter into a supplemental indenture (with endorsements of Guarantees thereon by the Guarantors) to evidence such succession, substitution and exercise of every right and power of such successor corporation and such discharge and release of the Company.

ARTICLE VI
DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Subject to the provisions set forth below in this Section 6.01, an "Event of Default" occurs if:

(a) the Company defaults in the payment of interest (pursuant to paragraph 1 of the Securities), if any, payable on any Security when the same becomes due and payable and such default continues for a period of 30 days;

(b) the Company defaults in the payment of the Principal Amount or premium on any Security when the same becomes due and payable at its Stated Maturity, upon declaration, upon redemption, when due for purchase by the Company or otherwise;

(c) the Company fails to comply with any of its agreements in the Securities or this Indenture (other than (i) a default specified in clauses (a) or (b) of this Section 6.01 or (ii) under Section 4.02 hereof) or the Collateral Documents and such failure continues for 60 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the Securities;

(d) the Company fails to comply with Section 4.02 and such failure continues for 90 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the Securities;

(e) the Company fails to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the stated principal amount of any of the Company's or its Subsidiaries' Indebtedness, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 10 days of receipt by the Company or such Subsidiary of notice of any such acceleration) if the aggregate principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at final stated maturity or which has been accelerated (in each case with respect to which the 10-day period described above has elapsed), aggregates $25.0 million or more at any time;

(f) the Company or a Significant Subsidiary of the Company fails to pay when due any final, non-appealable judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of $25.0 million, which judgments are not stayed, bonded or discharged within 60 days after their entry;

(g) any Guarantee by a Guarantor that is a Significant Subsidiary shall for any reason cease to be, or be asserted by the Company or such Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Guarantee in accordance with the provisions of this Indenture);

(h) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Company or any Significant Subsidiary of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Company or any Significant Subsidiary or for any substantial part of the Company's or any Significant Subsidiary's property or ordering the winding up or liquidation of the Company's or any Significant Subsidiaries affairs and such decree or order shall remain unstayed and in effect for a period of 60 days;

(i) the Company or any Significant Subsidiary of the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Company or such Significant Subsidiary of the Company or for any substantial part of its property or make any general assignment for the benefit of creditors; or

(j) unless such Liens have been released in accordance with the provisions of this Indenture and the Collateral Documents, Liens in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) with respect to all or a substantial portion of the Collateral cease to be valid, enforceable or perfected Liens (subject only to Permitted Liens) or the Company or any Guarantor shall assert, in any pleading in any court of competent jurisdiction, that any such security interest is invalid or unenforceable and, in the case of any Guarantor, the Company fails to cause such Guarantor to rescind such assertions within 30 days after the Company has actual knowledge of such assertions.

Section 6.02 Defaults and Remedies. If an Event of Default (other than an Event of Default specified in Section 6.01(h) with respect to the Company or Section 6.01(i) with respect to the Company) occurs and is continuing, subject to the provisions, terms and conditions of the Junior Lien Intercreditor Agreement, the Trustee by notice to the Company and the Collateral Trustee, or the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding by notice to the Company, the Trustee and Collateral Trustee, may declare all Securities Obligations (including the Acceleration Premium set forth in this Section 6.02) to be immediately due and payable in cash. Upon such a declaration, such Securities Obligations shall become and be immediately due and payable in cash subject to the provisions of Article X. If an Event of Default specified in Section 6.01(d), Section 6.01(h) or Section 6.01(i) occurs and is continuing, all Securities Obligations (including the Acceleration Premium set forth in this Section 6.02) shall become and be immediately due and payable in cash without any declaration or other act on the part of the Trustee or any Securityholder.

The Holders of a majority in principal amount of the Securities then outstanding by notice to the Trustee and the Collateral Trustee may rescind an acceleration and its consequences, including the payment of the Acceleration Premium, if (a) all existing Events of Default, other than the nonpayment of the principal of and other premium, accrued and unpaid interest, if any,

on the Securities which has become due solely by such declaration of acceleration, have been cured or waived; (b) the Company has paid or deposited with the Trustee a sum in immediately available funds sufficient to pay (i) all overdue interest, if any, on the Securities, (ii) the principal of any Security which has become due otherwise than by such declaration of acceleration, and (iii) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration; (c) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (d) all payments due to the Trustee and any predecessor Trustee under Section 7.07 have been made. No such rescission shall affect any subsequent Default or Event of Default or impair any right consequent thereon.

If for any reason Securities Obligations are accelerated at any time and such acceleration is not rescinded pursuant to this Section 6.02, in view of the impracticality and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof, the Company agrees to pay in respect of the Securities, upon the effective date of such acceleration, a repayment fee in the amount equal to the Acceleration Premium. Such Acceleration Premium shall be presumed to be the amount of liquidated damages sustained by Holders as a result of such acceleration and each of the Company and the Guarantors agrees that it is reasonable under the circumstances currently existing. In addition, Holders shall be entitled to such Acceleration Premium upon the occurrence of any Event of Default described in Section 6.01(d), Section 6.01(h) or Section 6.01(i) hereof, even if Holders elect, at their option, to provide financing to any obligor hereunder or permit the use of cash collateral under the Bankruptcy Code.

The Company and each Guarantor acknowledges, and, by accepting a Security, each Holder agrees, that each Holder of Securities has the right to maintain its investment in such Securities free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of an Acceleration Premium by the Company in the event that the Securities are accelerated as a result of an Event of Default is intended to provide compensation for the deprivation of such right under such circumstances.

Section 6.03 Other Remedies. If an Event of Default occurs and is continuing, subject to the provisions, terms and conditions of the Junior Lien Intercreditor Agreement, the Trustee may pursue any available remedy to collect the payment of the Principal Amount of all the Securities plus the Acceleration Premium, plus all other premium, accrued and unpaid interest, if any, thereon or to enforce the performance of any provision of the Securities, this Indenture or the Collateral Documents.

The Trustee may maintain a proceeding even if the Trustee does not possess any of the Securities or does not produce any of the Securities in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Past Defaults. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding (calculated in accordance with Section 2.08 and the definition of "Affiliate" hereunder), by notice in writing to the Trustee (and without notice to any other Securityholder necessary), may waive an existing Default and its consequences, except (a) an Event of Default described in Section 6.01(a) or 6.01(b) or (b) a Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Securityholder affected. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right. This Section 6.04 shall be in lieu of Section 316(a)1(B) of the TIA and such Section 316(a)1(B) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.05 Control by Majority. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding (calculated in accordance with Section 2.08 and the definition of "Affiliate" hereunder) may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines in good faith is unduly prejudicial to the rights of other Securityholders or would involve the Trustee in personal liability. This Section 6.05 shall be in lieu of Section 316(a)1(A) of the TIA and such Section 316(a)1(A) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.06 Limitation on Suits. A Securityholder may not pursue any remedy with respect to this Indenture or the Securities unless:

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

(b) the Holders of at least a majority in aggregate Principal Amount of the Securities at the time outstanding make a written request to the Trustee to pursue the remedy;

(c) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee, in its sole discretion, against any loss, liability or expense;

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

(e) the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Securityholder may not use this Indenture to prejudice the rights of any other Securityholder or to obtain a preference or priority over any other Securityholder. The rights and remedies of each Securityholder are subject to the terms of the Junior Lien Intercreditor Agreement.

Section 6.07 Rights of Holders to Receive Payment. Subject to the provisions of Article X hereof, notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of interest installments, the Principal Amount, and premium, if any, due on overdue amounts in respect of the Securities held by such Holder, on or after the respective due dates expressed in the Securities, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected adversely without the consent of such Holder.

Section 6.08 Collection Suit by Trustee. If an Event of Default described in Section 6.01(a) or 6.01(b) occurs and is continuing, without possession of any of the Securities or the production thereof in any proceeding related thereto, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount owing with respect to the Securities and the amounts provided for in Section 7.07.

Section 6.09 Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Guarantor or any other obligor upon the Securities or the property of the Company, any Guarantor or of such other obligor or their creditors, the Trustee (irrespective of whether interest installments, the Principal Amount, premium, interest, if any, due on overdue amounts in respect of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company or the Guarantors for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for any accrued and unpaid interest installments, the whole amount of the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the Securities, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel or any other amounts due the Trustee under Section 7.07) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07.

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

Section 6.10 Priorities. Subject to the terms, conditions and provisions of the Junior Lien Intercreditor Agreement and the Collateral Documents, any money collected by the Trustee pursuant to this Article VI, and any money or other property distributable in respect of the Securities Obligations after the occurrence of an Event of Default, shall be applied in the following order:

FIRST: to the Trustee (including any predecessor Trustee), its agents, professional advisors and counsel for amounts due under Section 7.07;

SECOND: to Securityholders for amounts due and unpaid on the Securities for any accrued and unpaid interest installments, the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the Securities, as the case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

THIRD: the balance, if any, to the Company or the Guarantors or to such other party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section 6.10. At least 15 days before such record date, the Trustee shall mail to each Securityholder and the Company a notice that states the record date, the payment date and the amount to be paid (to the extent such information is then known by the Trustee and is not superseded by an order issued by a court of competent jurisdiction).

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant (other than the Trustee) in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate Principal Amount of the Securities at the time outstanding. This Section 6.11 shall be in lieu of Section 315(e) of the TIA and such Section 315(e) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.12 Waiver of Stay, Extension or Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company from paying all or any portion of any interest installment, the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the Securities, as contemplated herein, or which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII
TRUSTEE

Section 7.01 Duties of Trustee. (a) If an Event of Default has occurred and is continuing and is actually known to a Responsible Officer, the Trustee shall exercise such of 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 undertakes to perform such duties and only such duties that are specifically set forth in this Indenture and no implied covenants or other obligations shall be read into this Indenture against the Trustee; and

(ii) the duties of the Trustee will be determined solely by the express provisions of this Indenture, in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine such certificates and opinions to determine whether or not they conform on their face to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts, statements, conclusions or opinions contained therein).

This Section 7.01(b) shall be in lieu of Section 315(a) of the TIA and such Section 315(a) is hereby expressly excluded from this Indenture, as permitted by the TIA.

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

(i) this paragraph (c) does not limit the effect of paragraph (b) or (e) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee unless it is proved in a court of competent jurisdiction in a final and non-appealable decision that the Trustee was negligent in ascertaining the pertinent facts; and

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

Section 7.01(c)(i), (ii) and (iii) shall be in lieu of Sections 315(d)(1), 315(d)(2) and 315(d)(3) of the TIA and such Sections 315(d)(1), 315(d)(2) and 315(d)(3) are hereby expressly excluded from this Indenture, as permitted by the TIA.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to Section 7.01(a), (b), (c) and (e).

(e) The Trustee may refuse to perform any duty or exercise any right or power or expend or risk its own funds or otherwise incur any financial liability unless it receives security or indemnity satisfactory to it, in its sole discretion, against any loss, liability or expense.

(f) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee (acting in any capacity hereunder) shall be under no liability for interest on, or be required to invest, any money received by it hereunder unless otherwise agreed in writing with the Company.

Section 7.02 Rights of Trustee. Subject to the provisions of Section 7.01.

(a) the Trustee may conclusively rely and shall be fully 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 believed by it in the absence of bad faith to be genuine and to have been signed or presented by the proper party or parties, and the Trustee need not, and shall not be under any obligation to, investigate any fact or other matter stated in any such document;

(b) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may in the absence of bad faith rely conclusively upon an Officers' Certificate and/or an Opinion of Counsel;

(c) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodian or nominee appointed with due care by it hereunder;

(d) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith which it reasonably believes to be authorized or within its rights or powers conferred under this Indenture;

(e) the Trustee may consult with counsel selected by it and any advice or opinion 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 in good faith 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 pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee, in its sole discretion, against the costs, fees, expenses and liabilities which may be incurred by it in compliance with such request or direction;

(g) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Order and any resolution of the Board of Directors shall be sufficiently evidenced by a Board Resolution;

(h) 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, 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, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, during normal business hours and after reasonable prior notice to the Company, to examine the books, records and premises of the Company, personally or by agent or attorney, at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(i) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice of such Default or Event of Default at the Corporate Trust Office of the Trustee from the Company, any Guarantor or any Holder, and such notice references the Securities and this Indenture;

(j) the rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder;

(k) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(l) the Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article IV;

(m) any permissive right or authority granted to the Trustee shall not be construed as a mandatory duty;

(n) the Company shall provide prompt written notice to the Trustee of any change to its fiscal year;

(o) neither the Trustee nor any of its officers, directors, employees or agents shall be liable for any action taken or omitted under this Indenture or in connection therewith except to the extent caused by the Trustee's gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review. Anything in this Indenture to the contrary notwithstanding, in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action; and

(p) the Trustee shall not be required to give any bond or surety in respect of the performance of its duties hereunder.

Section 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or co-registrar may do the same with like rights. However, the Trustee must comply with Section 7.10 and Section 7.11.

Section 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use or application of the proceeds from the Securities, it shall not be responsible for any statement in any registration statement for the Securities under the Securities Act, in any offering document for, or in any document entered into in connection with the sale of, the Securities, in this Indenture or in the Securities (other than its certificate of authentication), all of which statements shall be taken as the statements of the Company. The Trustee shall have no duty to see to the performance or observance of, or to perform or observe, any of the covenants and agreements on the part of the Company, any Guarantor or any other Person to be performed or observed under this Indenture or any of the Securities or Guarantees. The Trustee shall not be responsible for making any calculation or computation in respect of any matter referred to in this Indenture.

Section 7.05 Notice of Defaults. If a Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall give to each Securityholder notice of all such Defaults known to it within 90 days after any such Default occurs or, if later, within 15 days after it is actually known to a Responsible Officer of the Trustee, unless such Default shall have been cured or waived before the giving of such notice. Notwithstanding the preceding sentence, except in the case of a Default described in Section 6.01(a) and Section 6.01(b), if and as long as the Trustee also acts in the capacity of the Paying Agent, the Trustee may withhold the notice if and so long as a committee of Responsible Officers of the Trustee in good faith determines that withholding the notice is in the interests of Securityholders. The second sentence of this Section 7.05 shall be in lieu of the proviso to Section 315(b) of the TIA and such proviso is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 7.06 Reports by Trustee to Holders. Within 60 days after each May 15 beginning with the May 15 following the date of this instrument, the Trustee shall mail, or submit to electronic submission (for Securities held in book-entry form) to each Securityholder a brief report dated as of such May 15 that complies with TIA Section 313(a), if required by such Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the 12 months preceding the reporting date, no report need by transmitted). The Trustee also shall comply with TIA Section 313(b), if required by such Section 313(b).

The Company agrees to notify the Trustee promptly in writing whenever the securities become listed on any securities exchange and of any delisting thereof.

Section 7.07 Compensation and Indemnity. The Company agrees:

(a) to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) to reimburse the Trustee promptly following its written request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture or any documents executed in connection herewith (including the reasonable compensation and the expenses and disbursements of its agents, professional advisors and one primary counsel and required local counsel), except any such expense, disbursement or advance as may be attributable to its gross negligence or willful misconduct; and

(c) to indemnify the Trustee or any predecessor Trustee and their agents, officers, directors and employees for, and to hold them harmless against, any and all loss, damage, claim, liability, cost or expense (including attorneys' fees and expenses of one primary counsel and required local counsel and taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) incurred without gross negligence or willful misconduct on its part, as determined by a court of competent jurisdiction in a final and non-appealable decision, arising out of or in connection with this Indenture, the Securities and the acceptance or administration of the trust or trusts hereunder, including the documented costs and expenses of defending itself against any claim (whether asserted by the Company or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section. The Company shall defend any such claim and the Trustee shall cooperate in such defense. The Trustee may have separate counsel, and the Company shall pay the reasonable costs and expenses of any such separate counsel.

To secure the Company's obligations in this Section 7.07, the Trustee shall have a Lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay interest installments, the Principal Amount, premium, or interest, if any, due on overdue amounts, and on the Collateral. Such lien shall survive the satisfaction and discharge of this Indenture.

The Company's obligations pursuant to this Section 7.07 and the Lien provided for herein shall survive the satisfaction and discharge of this Indenture and the Securities, the termination for any reason of this Indenture (including any termination or rejection hereof under any bankruptcy law) and the removal, resignation or replacement of the Trustee. In addition to, and without prejudice to its other rights hereunder, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(h) or Section 6.01(i), the expenses, including the reasonable charges and expenses of its counsel, and the compensation for the services, are intended to constitute expenses of administration under any bankruptcy law.

Section 7.08 Replacement of Trustee. The Trustee may resign by so notifying the Company and be discharged from the trust created hereby; *provided, however,* that no such resignation shall be effective until a successor Trustee has accepted its appointment pursuant to this Section 7.08. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may remove the Trustee by so notifying the Trustee and the Company in writing. The Company shall remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10;

(b) the Trustee is adjudged bankrupt or insolvent;

(c) a receiver or public officer takes charge of the Trustee or its property; or

(d) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint, by resolution of its Board of Directors, a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company satisfactory in form and substance to the retiring Trustee and the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail, or submit by electronic submission (for Securities held in book-entry form), a notice of its succession to Securityholders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided that all sums owing to the Trustee hereunder have been paid and subject to the lien provided for in Section 7.07. Notwithstanding the replacement of the Trustee, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring trustee.

If a successor Trustee does not take office within 30 days after the retiring Trustee gives its notice of resignation or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may petition any court of competent jurisdiction, in each case at the expense of the Company for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10, any Securityholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Section 7.09 Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business or assets (including the administration of the trust created by this Indenture) to, another entity, the resulting, surviving or transferee entity without the execution or filing of any paper or any further act of any of the parties hereto shall be the successor Trustee.

Section 7.10 Eligibility; Disqualification. The Trustee shall at all times satisfy the requirements of TIA Section 310(a)(1). The Trustee (or its parent holding company) shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition. Nothing herein contained shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA Section 310(b). The Trustee shall comply with TIA Section 310(b); *provided, however,* that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.11 Preferential Collection of Claims Against Company. The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE VIII
DISCHARGE OF INDENTURE

Section 8.01 Discharge of Liability on Securities. When (i) the Company delivers to the Trustee all outstanding Securities (other than Securities replaced pursuant to Section 2.07) for cancellation or (ii) all outstanding Securities have become due and payable or will become due and payable at the Stated Maturity within one year and, in each case, the Company irrevocably deposits with the Trustee cash, in immediately available funds, sufficient to pay and discharge all amounts due and owing on all outstanding Securities (other than Securities replaced pursuant to Section 2.07), together with irrevocable instructions from the Company directing the Trustee to apply such funds to the payment thereof at Stated Maturity and if all other Securities Obligations have been paid and satisfied in full, then this Indenture shall, subject to Section 7.07, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand at the cost and expense of the Company and accompanied by (i) an Officers' Certificate and (ii) a certificate from a nationally recognized firm of independent accountants expressing its opinion that the payment of such deposited cash without investment will provide cash at such times and in such amounts as will be sufficient to pay principal, premium, if any, and interest when due on all the Securities to Stated Maturity, and the Company shall promptly provide written notice of such satisfaction and discharge to the Collateral Trustee in accordance with the provisions of the Collateral Trust Agreement.

Section 8.02 Repayment to the Company. The Trustee and the Paying Agent shall return to the Company upon written request any money held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, as applicable, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person and the Trustee and the Paying Agent shall have no further liability to the Securityholders with respect to such money or securities for that period commencing after the return thereof.

ARTICLE IX
AMENDMENTS

Section 9.01 Without Consent of Holders. The Company and the Trustee together may amend or supplement this Indenture, the Collateral Documents to which the Trustee is a party or the Securities without notice to or consent of any Securityholder or Guarantor:

(a) to comply with Article V;

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

(c) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities;

(d) to make any changes that would provide the holders of Securities with any additional rights or benefits;

(e) to make any change that does not adversely affect the rights of any Holder;

(f) to add additional Guarantors to this Indenture, any Collateral Document or the Collateral Trust Agreement, or to add Collateral to secure the Securities Obligations or otherwise enter into additional or supplemental Collateral Documents pursuant to this Indenture, any Collateral Document or otherwise, or a collateral trust agreement with respect thereto, including the amendment of any Collateral Documents or intercreditor agreements to reflect or permit the incurrence of additional Parity Lien Debt or Priority Lien Debt that is otherwise permitted hereunder;

(g) to release any Guarantor from any of its Securities Obligations under its Guarantee when permitted or required by this Indenture and the Collateral Documents, as applicable;

(h) to release or subordinate the Parity Liens with respect to the Collateral in accordance with the terms of this Indenture, the Collateral Trust Agreement or the other Collateral Documents;

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

(j) to release Collateral from the Lien of this Indenture and the Collateral Documents when permitted or required by the Junior Lien Intercreditor Agreement and, to the extent applicable and not in conflict with the Junior Lien Intercreditor Agreement, this Indenture and the other Collateral Documents;

(k) to make, complete or confirm any grant of a Lien on Collateral permitted or required by this Indenture or any of the Collateral Documents or, to the extent required under the Junior Lien Intercreditor Agreement, to conform any Collateral Documents to reflect permitted amendments or modifications to comparable provisions under any Credit Agreement Documents;

(l) to amend the Junior Lien Intercreditor Agreement pursuant to Section 31 thereof or otherwise enter into an intercreditor agreement in respect of any Credit Agreement permitted hereby to the extent permitted under the Junior Lien Intercreditor Agreement and provided such intercreditor agreement is not less favorable to the Secured Parties (as defined in the Collateral Trust Agreement) (taken as a whole) than the Junior Lien Intercreditor Agreement in effect as of the Issue Date; or

(m) to comply with the provisions of the TIA or with any requirement of the SEC, in each case, arising as a result of the qualification of this Indenture under the TIA.

Section 9.02 With Consent of Holders. The Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Securities, the Guarantees and the Collateral Documents without notice to any Securityholder but with the consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) and, subject to Section 6.04 and Section 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of principal of, premium, if any, or interest on, the Securities, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Collateral Documents or the Securities or the Guarantees may be waived with with the consent of the Holders of a majority in aggregate Principal Amount of the Securities then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) other than as set forth in this Section 9.02 below.

Subject to Section 9.04, without the written consent of each Securityholder affected, however, an amendment, supplement or waiver, including a waiver pursuant to Section 6.04, may not:

(a) reduce the principal amount of such Securities whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal of or change the fixed final maturity of any such Securities or alter or waive the provisions with respect to the redemption of such Securities (other than provisions relating to Section 4.13 or Section 4.15, the notice

provisions thereof and the premiums, if any, payable thereunder, including, without limitation, whether such premiums are payable in cash or otherwise);

(c) reduce the rate of or change the time for payment of interest on any Securities;

(d) (A) waive a Default in the payment of principal of or premium, if any, or interest on the Securities, except a rescission of acceleration of the Securities by the Holders of a majority in aggregate principal amount of the Securities then outstanding, and a waiver of the payment default that resulted from such acceleration, or (B) waive a Default in respect of a covenant or provision contained in the Indenture or any Guarantee which cannot be amended or modified without the consent of all Holders;

(e) make any Security payable in money other than U.S. dollars, except as otherwise permitted under this Indenture;

(f) make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Securities (other than provisions relating to Section 4.13 or Section 4.15 and the premiums, if any, payable thereunder, including, without limitation, whether such premiums are payable in cash or otherwise and the provisions and definitions related to the Acceleration Premium, including, without limitation, whether such Acceleration Premium is payable in cash or otherwise);

(g) make any change in these amendment and waiver provisions;

(h) impair the right of any Holder to receive payment of principal of, premium, if any, or interest on such Holder's Securities on or after the due dates therefor or to institute suit for the enforcement of any payment of principal of, premium, if any, or interest on such Holder's Securities on or after the due dates therefor;

(i) make any change to or modify the ranking in right of payment of the Securities that would adversely affect the Holders;

(j) except as expressly permitted by the Indenture, modify the Guarantee of any Significant Subsidiary in any manner adverse to the Holders of the Securities; or

(k) make any change in the provisions of the Indenture or any Collateral Document dealing with the application of proceeds of the Collateral that would materially adversely affect the Holders.

In addition, any amendment to, or waiver of, the provisions of the Indenture or any Collateral Document that has the effect of releasing all or substantially all of the Collateral from Liens securing the Securities will require the consent of Holders of at least 66⅔% in aggregate principal amount of the Securities then outstanding. Any other amendment to or waiver of the provisions of any Collateral Document will be deemed to have been agreed to by the aggregate

principal amount of the Securities then outstanding if consented to by Holders of at least a majority in aggregate principal amount of the Securities then outstanding.

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

After an amendment under this Section 9.02 becomes effective, the Company shall mail to each Holder a notice briefly describing the amendment. Failure to mail the notice or a defect in the notice shall not affect the validity of the amendment.

Section 9.03 Compliance with Trust Indenture Act. Every supplemental indenture executed pursuant to this Article IX shall comply with the TIA in the event this Indenture has become qualified under the TIA.

Section 9.04 Revocation and Effect of Consents. Until an amendment, waiver or other action by Holders becomes effective, a consent thereto by a Holder of a Security hereunder is a continuing consent by the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same obligation as the consenting Holder's Security, even if notation of the consent, waiver or action is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent, waiver or action as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment, waiver or action becomes effective. After an amendment, waiver or action becomes effective, it shall bind every Securityholder.

Section 9.05 Notation on or Exchange of Securities. Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX may, and shall if required by the Trustee, bear a notation in form approved by the Company and the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Securities.

Section 9.06 Trustee to Sign Supplemental Indentures. The Trustee shall sign any supplemental indenture authorized pursuant to this Article IX if the amendment contained therein does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee need not sign such supplemental indenture. In signing such supplemental indenture, the Trustee shall, in addition to the documents required by Section 12.04 hereof, receive, and (subject to the provisions of Section 7.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such supplemental indenture is authorized or permitted by this Indenture and that such supplemental indenture is the legal, valid and binding obligation of the Company and any Guarantor party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions thereof.

Section 9.07 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article IX, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes, and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE X
GUARANTEES

Section 10.01 Guarantees.

(a) For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Guarantors hereby jointly and severally and irrevocably and unconditionally guarantees to the Trustee and to each Holder of a Security authenticated and delivered by the Trustee irrespective of the validity or enforceability of this Indenture or the Securities or the Securities Obligations, that: (i) the principal of, any interest on the Securities (including, without limitation, any interest that accrues after the filing of a proceeding of the type described in Section 6.01(h) or Section 6.01(i)), and premium due in respect of, the Securities and any fees, expenses and other amounts owing under this Indenture will be duly and punctually paid in full when due, whether at Stated Maturity, by acceleration, by redemption, by purchase or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Securities and any other amounts due in respect of the Securities, and all other Securities Obligations to the Holders of the Securities and to the Trustee, whether now or hereafter existing, will be promptly paid in full or performed, all strictly in accordance with the terms hereof and of the Securities; and (ii) in case of any extension of time of payment or renewal of any Securities or any of such other Securities Obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration, purchase or otherwise. If payment is not made when due of any amount so guaranteed for whatever reason, each Guarantor shall be jointly and severally obligated to pay the same individually whether or not such failure to pay has become an Event of Default which could cause acceleration pursuant to Section 6.02. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection. An Event of Default under this Indenture or the Securities shall constitute an Event of Default under this Guarantee, and shall entitle the Holders to accelerate the Securities Obligations of each Guarantor hereunder in the same manner and to the same extent as the Securities Obligations of the Company. This Guarantee is intended to be superior to or *pari passu* in right of payment with all indebtedness of the Guarantors and each Guarantor's Securities Obligations are independent of any Secured Obligation of the Company or any other Guarantor. The Securities Obligations of a Guarantor will be secured by security interests in the Collateral owned by such Guarantor to the extent provided for in the Collateral Documents and as required pursuant to Section 4.08.

(b) Each Guarantor waives, to the extent permitted by applicable law, presentation to, demand of, payment from and protest to the Company of any of the

Securities Obligations and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Securities or the Securities Obligations. The Securities Obligations of each Guarantor shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under this Indenture, the Collateral Documents, the Securities or any other agreement or otherwise; (b) any extension or renewal of any guarantee thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Collateral Documents, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Securities Obligations or any of them; (e) the failure of any Holder or the Trustee to exercise any right or remedy against any other guarantor of the Securities Obligations; or (f) any change in the ownership of such Guarantor.

(c) The Securities Obligations of each Guarantor shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Securities Obligations of the Company or otherwise. Without limiting the generality of the foregoing, the Securities Obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Collateral Documents, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Securities Obligations of the Company, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of such Guarantor or would otherwise operate as a discharge of such Guarantor as a matter of law or equity.

(d) Each Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of, premium due in respect of, or interest on any Obligation of the Company with respect to the Securities is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

(e) In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Company to pay the principal of, premium due in respect of, or interest on any Secured Obligation with respect to the Securities when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Secured Obligation, each Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (i) the unpaid amount of such Securities Obligations, (ii) accrued and unpaid interest on such Securities Obligations (but only to the extent not prohibited by law) and (iii) all other monetary Obligations of the Company to the Holders and the Trustee.

(f) Until such time as the Securities and the other Securities Obligations of the Company guaranteed hereby have been satisfied in full (other than contingent obligations not then due and owing), to the extent permitted by applicable law, each Guarantor hereby irrevocably waives any claim or other rights that it may now or hereafter acquire against the Company or any other Guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Securities Obligations under this Guarantee, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Holders or the Trustee against the Company or any other Guarantor or any security, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Company or any other Guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right. If any amount shall be paid to such Guarantor in violation of the preceding sentence at any time prior to the later of the payments in full of the Securities and all other amounts then due and payable under this Indenture, this Guarantee and the Stated Maturity of the Securities, such amount shall be held in trust for the benefit of the Holders and the Trustee and shall forthwith be paid to the Trustee to be credited and applied to the Securities and all other amounts payable under this Guarantee, whether matured or unmatured, in accordance with the terms of this Indenture, or to be held as security for any Securities Obligations or other amounts payable under this Guarantee thereafter arising.

(g) Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 10.01 is knowingly made in contemplation of such benefits. Each Guarantor further agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (x) subject to this Article X, the maturity of the Securities Obligations guaranteed hereby may be accelerated as provided in Article VI for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Securities Obligations guaranteed hereby, and (y) in the event of any acceleration of such Securities Obligations guaranteed hereby as provided in Article VI, such Securities Obligations (whether or not due and payable) shall further then become due and payable by the Guarantors for the purposes of this Guarantee.

(h) A Guarantor that makes a distribution or payment under a Guarantee shall be entitled to contribution from each other Guarantor in a pro rata amount based on the Adjusted Net Assets of each such other Guarantor for all payments, damages and expenses incurred by that Guarantor in discharging the Company's obligations with respect to the Securities and this Indenture or any other Guarantor with respect to its Guarantee, so long as the exercise of such right does not impair the rights of the Holders of the Securities under the Guarantees.

(i) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys', agents' and professional advisors' fees) incurred by the Trustee, the Collateral Trustee or any Holder in enforcing any rights under this Section.

Section 10.02 Limitation on Liability. Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Securities Obligations guaranteed hereunder by any Guarantor shall not exceed the maximum amount that can be hereby guaranteed without rendering this Indenture, as it relates to such Guarantor, void, voidable or unenforceable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally. To effectuate the foregoing intention, the Securities Obligations of each Guarantor shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the Securities Obligations of such other Guarantor under its Guarantee or pursuant to its contribution Securities Obligations, result in the Securities Obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or otherwise not being void, voidable or unenforceable under any bankruptcy, reorganization, receivership, insolvency, liquidation or other similar legislation or legal principles under any applicable foreign law. Each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a contribution from each other Guarantor in a pro rata amount based on the Adjusted Net Assets of each Guarantor.

Section 10.03 Execution and Delivery of Guarantees.

(a) The Guarantee of any Guarantor shall be evidenced solely by its execution and delivery of this Indenture (or, in the case of any Guarantor that is not party to this Indenture on the Issue Date, a supplemental indenture thereto) and not by an endorsement on, or attachment to, any Security of any Guarantee or notation thereof. To effect any Guarantee of any Guarantor not a party to this Indenture on the Issue Date, such future Guarantor shall execute and deliver a supplemental indenture pursuant to Section 10.08.

(b) Each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 shall be and remain in full force and effect notwithstanding any failure to endorse on any Security a notation of such Guarantee.

(c) The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of any Guarantee set forth in this Indenture on behalf of the Guarantor.

Section 10.04 When a Guarantor May Merge, etc. No Guarantor shall consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another corporation, Person or entity whether or not affiliated with such Guarantor (but excluding any consolidation, amalgamation or merger if the surviving corporation is no longer a Subsidiary) unless (i) subject to the provisions of Section 10.07 hereof, the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) assumes all the Securities Obligations of such Guarantor pursuant to a supplemental indenture under the Securities and this Indenture and (ii) immediately after giving effect to such transaction, no Default or Event of

Default exists. In connection with any such consolidation or merger, the Trustee shall be entitled to receive an Officers' Certificate and an Opinion of Counsel stating that such consolidation or merger is permitted by, and is being consummated in compliance with, this Section 10.04, and if a supplemental indenture is required in connection with such consolidation or merger, that such supplemental indenture complies with the requirements of this Indenture.

Section 10.05 No Waiver. Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article X shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article X at law, in equity, by statute or otherwise.

Section 10.06 Modification. No modification, amendment or waiver of any provision of this Article X, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstances.

Section 10.07 Release of Guarantor.

(a) A Guarantor shall be deemed automatically and unconditionally released and discharged from all obligations under this Indenture without any further action required on the part of the Trustee or any Holder upon:

(i) the sale or other transfer or disposition (including by way of consolidation or merger) of all or substantially all of the Capital Stock or all or substantially all of the assets of a Guarantor to any Person, or the dissolution, liquidation or winding up of any such Guarantor, in each case in compliance with the terms of this Indenture (including, without limitation, Section 10.04 hereof) and in a transaction that does not result in a Default or an Event of Default being in existence or continuing immediately thereafter;

(ii) the Company designating such Guarantor to be an Unrestricted Subsidiary in accordance with the provisions of Section 4.11 and the definition of "Unrestricted Subsidiary";

(iii) the release or discharge of the guarantee of any other Indebtedness which resulted in the obligation to guarantee the Securities Obligations, in a transaction that does not result in a Default or an Event of Default being in existence or continuing immediately thereafter and no Default or Event of Default is otherwise in existence or continuing; or

(iv) the applicable Guarantor ceasing to be a Subsidiary as a result of any foreclosure of any pledge or security interest in favor of Priority Lien

Obligations, subject to, in each case, the application of the proceeds of such foreclosure in the manner described in the Junior Lien Intercreditor Agreement.

(b) The Trustee shall execute and deliver at the sole expense of the Company an appropriate instrument or instruments, prepared by the Company, evidencing such release upon receipt of a written request of the Company accompanied by an Officers' Certificate and Opinion of Counsel certifying as to the compliance with this Section 10.07 and the other applicable provisions of this Indenture.

Section 10.08 Execution of Supplemental Indentures for Future Guarantors. The Company shall cause each Subsidiary of the Company that is required to become a Guarantor of the Securities Obligations pursuant to Section 4.09 to promptly execute and deliver to the Trustee a joinder to the Junior Lien Intercreditor Agreement and a supplemental indenture substantially in the form of Exhibit E hereto pursuant to which such Subsidiary shall become a Guarantor under this Article X and shall guarantee the Securities Obligations of the Company. Concurrently with the execution and delivery of such supplemental indenture, the Company shall deliver to the Trustee an Opinion of Counsel to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and that, subject to the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws relating to creditors' rights generally and to the principles of equity, whether considered in a proceeding at law or in equity, and subject to other then customary exceptions, the Guarantee of such Guarantor is a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms.

ARTICLE XI
COLLATERAL

Section 11.01 Collateral Documents.

(a) In order to secure the payment of the principal of, premium due in respect of, and interest on the Securities when due, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Company pursuant to the Securities or by the Guarantors pursuant to the Guarantees, the payment of all other Securities Obligations and the performance of all other obligations of the Company and the Guarantors under this Indenture, the Securities, the Guarantees and the Collateral Documents, the Company and the Guarantors have on the Issue Date simultaneously with the execution and delivery of this Indenture entered into the Collateral Trust Agreement and other applicable Collateral Documents (excluding, for the avoidance of doubt, any Collateral Documents deliverable after the Issue Date in accordance with Section 4.08). Any Person which, after the Issue Date, becomes a Guarantor under this Indenture in accordance with the terms, conditions and provisions hereof, shall, upon becoming a Guarantor under this Indenture, become a party to each applicable Collateral Document in accordance with the terms, conditions and provisions thereof, including the Collateral Trust Agreement, with respect to the assets or property (other than Excluded Property) of such Person, if any, that secure the Securities Obligations of such Person. Each Holder, by accepting a Security, consents and agrees to

all of the terms and provisions of the Collateral Documents, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, as the same may be amended, modified, supplemented, renewed, extended or replaced from time to time pursuant to the terms of the Collateral Documents, the Collateral Trust Agreement, the Junior Lien Intercreditor Agreement and this Indenture, and authorizes and directs the Trustee to enter into, or instruct the Collateral Trustee to enter into, the Collateral Documents, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, on its behalf and on behalf of such Holder, to appoint the Collateral Trustee to serve as collateral trustee and representative of the Trustee and such Holder thereunder and in accordance therewith and for each of the Trustee and the Collateral Trustee to perform its obligations and exercise its rights thereunder and in accordance therewith. In addition, each Holder further acknowledges and agrees that the Trustee is not required to, and shall not, take any action requested by a Holder under, in respect of or otherwise in connection with any Collateral Document, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, including, without limitation, instructing the Collateral Trustee to enforce any of the Collateral Documents or the Collateral Trust Agreement, unless the requisite Holders have properly instructed the Trustee in accordance with the terms of this Indenture, and the Trustee shall suffer no liability for not acting in the absence of any such instructions. The Company shall promptly deliver to the Trustee copies of all documents delivered to the Collateral Trustee pursuant to the terms, conditions and provisions of the Collateral Documents, including the Collateral Trust Agreement, and shall do or cause to be done all such acts and things as may be necessary, or as may be required by the applicable terms and provisions of the Collateral Documents, including the Collateral Trust Agreement, to assure and confirm to the Trustee and the Collateral Trustee the Liens on and security interests in the Collateral contemplated by this Indenture and the Collateral Documents, including the Collateral Trust Agreement, or any part hereof or thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Securities and Guarantees secured thereby, according to the intent and purposes herein and therein expressed. The Company and each Guarantor shall promptly take, and upon the written request of the Collateral Trustee or, during the continuance of an Event of Default, the Trustee (to the extent the Trustee is permitted to make such request under the Collateral Trust Agreement or the other Collateral Documents), the Company and each Guarantor shall promptly take, any and all actions required to cause the Collateral Documents to create and maintain, as security for the Securities Obligations, a valid and perfected third priority Lien (in each case, subject only to Permitted Liens) on and security interest in all of the Collateral, in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement). The Collateral Trustee and the Trustee shall have no obligation to make any such request and shall have no obligation to create, maintain, perfect or continue the perfection of any Lien on any of the Collateral (including, but not limited to, the filing of UCC financing or continuation statements).

Any Collateral held by the Collateral Trustee or any co-trustee or separate agent (as permitted in the Collateral Trust Agreement or the applicable Collateral Documents) for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) shall constitute Collateral for purposes of this Indenture.

(b) Consistent with the definition of Excluded Property,

(i) the Capital Stock and other securities of the Subsidiaries of the Company that are owned by the Company or any Guarantor will constitute Collateral only to the extent that such Capital Stock and other securities can secure the Securities without Rule 3-16 of Regulation S-X under the Securities Act ("Rule 3-16") (or any other law, rule or regulation) requiring separate financial statements of such Subsidiary to be filed with the SEC (or any other governmental agency);

(ii) in the event that Rule 3-16 (or any other law, rule or regulation) requires or is amended, modified or interpreted by the SEC to require (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would require) the filing with the SEC (or any other governmental agency) of separate financial statements of any Subsidiary (other than the Company) due to the fact that such Subsidiary's Capital Stock and other securities secure the Securities Obligations, the performance of all other Obligations of the Company or any Guarantor, then the Capital Stock and other securities of such Subsidiary shall automatically be deemed not to be part of the Collateral, but only to the extent necessary to not be subject to such requirement (and, in such event, the Collateral Documents may be amended or modified, without the consent of any Holder of the Securities, to the extent necessary to release the security interests in the shares of Capital Stock and other securities that are so deemed to no longer constitute part of the Collateral); and

(iii) in the event that Rule 3-16 (or any other law, rule or regulation) is amended, modified or interpreted by the SEC to permit (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would permit) such Subsidiary's Capital Stock and other securities to secure the Securities Obligations in excess of the amount then pledged without the filing with the SEC (or any other governmental agency) of separate financial statements of such Subsidiary, then the Capital Stock and other securities of such Subsidiary shall automatically be deemed to be a part of the Collateral but only to the extent necessary to not be subject to any such financial statement requirement (and, in such event, the Collateral Documents may be amended or modified, without the consent of any Holder of the Securities, to the extent necessary to subject to the Liens under the Collateral Documents such additional Capital Stock and other securities).

Section 11.02 Suits to Protect Collateral.

Subject to the terms, conditions and provisions of Article VII, the Trustee may, subject to the terms, conditions and provisions of the Collateral Trust Agreement and the other Collateral Documents, (i) in its sole discretion (it having no obligation to do so) during the continuance of an Event of Default and without the consent of the Holders of Securities or (ii) upon the direction of Holders pursuant to Section 6.05, direct, on behalf of all the Holders of the Securities, the

Collateral Trustee to take all actions it deems necessary or appropriate in order to enforce any of the terms of the Collateral Trust Agreement and the other Collateral Documents and collect and receive any and all amounts payable in respect of the obligations of the Company and the Guarantors under this Indenture, the Securities and the Guarantees thereof. Subject to the provisions of the Collateral Trust Agreement and the other Collateral Documents, each of the Trustee and the Collateral Trustee shall have power 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 any of the Collateral Trust Agreement, the other Collateral Documents or this Indenture, and such suits and proceedings as the Trustee or the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Trustee, the Collateral Trustee and the Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the Lien and security interest created by this Indenture, the Collateral Trust Agreement and the Collateral Documents or be prejudicial to the interests of the Holders or the Trustee).

Section 11.03 Determinations Relating to Collateral.

In the event (i) a Responsible Officer of the Trustee shall be deemed to have notice of any written request from the Company or any Guarantor under any Collateral Document or from any party to the Collateral Trust Agreement for consent or approval with respect to any matter or thing relating to any Collateral or the Company's or any Guarantor's obligations with respect thereto, or (ii) the Trustee shall deliver to the Collateral Trustee a Notice of Acceleration or Notice of Cancellation (as each of such terms is defined in the Collateral Trust Agreement), or a Notice of Acceleration shall be deemed to be in effect based on the occurrence of an Event of Default under Section 6.01(h) or Section 6.01(i) hereof and the Trustee shall deliver to the Collateral Trustee notice that any such Event of Default shall have occurred, then, in each such event, in addition to its obligations pursuant to Section 7.05, the Trustee shall, within five Business Days, provide notice to the Holders, in writing and at the Company's expense, reciting the matter or thing as to which consent has been requested or notice was required to be delivered. The Holders pursuant to Section 6.05 shall have the authority to direct the Trustee's response to any of the circumstances contemplated in clauses (i) and (ii) above. The Trustee may respond to any of the circumstances contemplated by this Section 11.03, but shall not be required to respond unless it shall have received written authority by Holders pursuant to Section 6.05, and the requirements of Article VII, including but not limited to the Trustee's rights to indemnity and for provision for its fees and expenses as set forth therein, are otherwise satisfied; *provided* that the Trustee shall be entitled to hire experts, consultants, agents and attorneys to advise the Trustee on the manner in which the Trustee should respond to such request or render any requested performance or response to such nonperformance or breach (the expenses of which shall be reimbursed to the Trustee by the Company in accordance with the terms of Section 7.07 hereunder). The Trustee shall be fully protected in the taking of any action recommended or approved by any such expert, consultant, agent or attorney.

Section 11.04 Possession, Use and Release of Collateral.

Each Holder, by accepting a Security, consents and agrees to the provisions of the Collateral Documents governing the Collateral, including the possession, use and release of Collateral, and, without limiting the generality of the foregoing, each Holder, by accepting a Security, agrees and consents that Collateral may, and, as applicable, shall, be released or substituted only in accordance with the terms of this Indenture, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and the other Collateral Documents.

Section 11.05 Filing, Recording and Opinions.

(a) The Company shall furnish to the Trustee and the Collateral Trustee on or within 120 days following the end of its fiscal year, an Officer's Certificate either (A) stating that such action has been taken with respect to the recording, filing, re-recording and refiling of Liens under the Collateral Documents on Article 9 Collateral as is necessary to maintain the perfection of such Liens, and reciting the details of such action or (B) stating that no such action is necessary to maintain the perfection of such Liens. For purposes of the foregoing, the term "Article 9 Collateral" shall mean Collateral with respect to which a Lien thereon may be perfected by the filing of a UCC-1 financing statement pursuant to the Uniform Commercial Code as adopted in the jurisdiction of organization of the Company or the applicable Guarantor.

(b) In the event this Indenture is qualified under the TIA, the Company will comply with the provisions of TIA Section 314(c), and shall comply with the provisions of Sections 314(b) and 314(d) except to the extent in whole or in part such compliance is not required as set forth in any SEC regulation or interpretation (including any no-action letter or exemptive order issued by the staff of the SEC, whether issued to the Company or any other Person).

Any release of Collateral permitted by Section 11.04 hereof will be deemed not to impair the Liens under this Indenture and the Collateral Documents in contravention thereof and any Person that is required to deliver an Officers' Certificate or Opinion of Counsel pursuant to Section 314(d) of the TIA, shall be entitled to rely upon the foregoing as a basis for delivery of such certificate or opinion. The Trustee may, to the extent permitted by Section 7.01 and Section 7.02 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in such documents and Opinion of Counsel.

(c) If any Collateral is released in accordance with this Indenture, the Collateral Trust Agreement and the other Collateral Documents and if the Company has delivered the certificates and documents required hereby and by the Collateral Documents, then, based on an Officers' Certificate and Opinion of Counsel delivered pursuant hereto, the Trustee will, upon request, deliver a certificate to the Collateral Trustee setting forth such determination.

Section 11.06 Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XI, the Collateral Trust Agreement and the other Collateral Documents upon the Company or the

Guarantors with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or a Guarantor or of any officer or officers thereof required by the provisions of this Article XI.

Section 11.07 Release Upon Termination of the Company's Obligations. In the event (i) that the Company delivers to the Trustee an Officers' Certificate and Opinion of Counsel certifying that all the Securities Obligations (other than contingent obligations for which no claim has been made) have been satisfied and discharged by the payment in full of such Securities Obligations (other than contingent obligations for which no claim has been made) and all such Securities Obligations (other than contingent obligations for which no claim has been made) have been so satisfied, or (ii) a discharge of this Indenture occurs under Article VIII, the Company and the Trustee shall deliver to the Collateral Trustee a notice stating that the Securities Obligations have been satisfied and discharged in accordance with the terms of this Indenture and that the Trustee, on behalf of the Holders, disclaims and gives up any and all rights it has in or to the Collateral, and any rights it has under the Collateral Documents, and upon receipt by the Collateral Trustee of such notice from an Officer of the Company, the Securities Obligations shall no longer be secured by the Collateral.

Section 11.08 Junior Lien Intercreditor Agreement . Notwithstanding anything to the contrary herein or in any Security or Collateral Document, the priority of the Liens securing the Securities Obligations and the exercise of rights and remedies of the Trustee, the Collateral Trustee and any Securityholder hereunder and under any Collateral Document are subject to the provisions of, the Junior Lien Intercreditor Agreement. In the event of any conflict between the terms of the Junior Lien Intercreditor Agreement and the terms of this Indenture, any Security or any other Collateral Document with respect to the priority of any Liens granted to the Collateral Trustee or the exercise of any rights and remedies of the Trustee, the Collateral Trustee or any Securityholder, the terms of the Junior Lien Intercreditor Agreement shall govern.

Section 11.09 Matters Relating to Collateral Trust Agreement.

Each Holder agrees that it will be bound by, and shall take no actions contrary to, the provisions of the Collateral Trust Agreement and authorizes and directs the Trustee to enter into, or instruct the Collateral Trustee to enter into, the Collateral Trust Agreement and act on its behalf to the extent set forth in the Collateral Trust Agreement and the other Collateral Documents. The Holders acknowledge the Collateral Trust Agreement provides for the allocation of proceeds of and value of the Collateral among the Secured Parties (as defined in the Collateral Trust Agreement) as set forth therein and contains limits on the ability of the Trustee and the Holders to take remedial actions with respect to the Collateral. The Holders acknowledge that the Securities Obligations (as defined in the Collateral Trust Agreement) are secured by the Collateral on a *pari passu* basis to the extent set forth in the Collateral Trust Agreement and the other Collateral Documents.

Until the termination of the Collateral Trust Agreement in accordance with the terms thereof, the Company will cause to be clearly, conspicuously and prominently inserted on the face of each Security a legend in the following form:

THIS SECURITY AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBJECT TO AND IN THE MANNER AND TO THE EXTENT SET FORTH IN, THAT CERTAIN COLLATERAL TRUST AGREEMENT DATED AS OF DECEMBER 18, 2013 AMONG, INTER ALIOS, PATRIOT COAL CORPORATION AND U.S. BANK NATIONAL ASSOCIATION, AS COLLATERAL TRUSTEE, AND EACH HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE COLLATERAL TRUST AGREEMENT.

The Company shall promptly notify the Trustee of the occurrence of the termination of the Collateral Trust Agreement.

ARTICLE XII
MISCELLANEOUS

Section 12.01 Trust Indenture Act. In the event this Indenture is qualified under the TIA, if any provision of this Indenture limits, qualifies, or conflicts with another provision which would be required to be included in this Indenture by the TIA, the required provision shall control.

Section 12.02 Notices. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows, or transmitted electronically or by facsimile transmission (confirmed orally) to the following addresses:

if to the Company or the Guarantors, to:

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141
Attn: Bennett K. Hatfield, Chief Executive Officer

if to the Trustee or Collateral Trustee, to:

U.S. Bank National Association
333 Commerce Street, Suite 800
Nashville, Tennessee 37201
Attention: Global Corporate Trust Services
Facsimile No.: (615) 251-0737
Email: wally.jones@usbank.com

For delivery of Securities only, to:

U.S. Bank National Association
Global Corporate Trust Services
60 Livingston Avenue

1st Fl. - Bond Drop Window
St. Paul, Minnesota 55107

The Company or the Trustee by notice given to the other in the manner provided above may designate additional or different addresses for subsequent notices or communications.

Any notice or communication given to a Securityholder shall be delivered electronically or mailed to the Securityholder, by first-class mail, postage prepaid, at the Securityholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to deliver or mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company delivers or mails a notice or communication to the Securityholders, it shall mail a copy to the Trustee and each Registrar, Paying Agent or co-registrar.

Anything herein to the contrary notwithstanding, any notice or communication to the Trustee will not be effective or be deemed to have been duly given unless and until such notice or communication is actually received by the Trustee at the Corporate Trust Office of the Trustee.

The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent electronically or by facsimile by Persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company. The Trustee shall have no duty or obligation to verify or confirm that the Person who sent such instructions or directions is, in fact, a Person authorized to give instructions or directions on behalf of the Company, and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company as a result of such reliance upon or compliance with such instructions or directions. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 12.03 Communication by Holders with Other Holders. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar, the Paying Agent and anyone else shall have the protection of TIA Section 312(c).

Section 12.04 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.05 Statements Required in Certificate or Opinion. Each Officers' Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that each Person making such Officers' Certificate or Opinion of Counsel 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 in such Officers' Certificate or Opinion of Counsel are based;

(c) a statement that, in the opinion of each such Person, he, she or it, as the case may be, has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement that, in the opinion of such Person, such covenant or condition has been complied with.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such eligible and qualified Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable case should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating the information on which counsel is relying unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 12.06 Separability Clause. In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.07 Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Registrar and the Paying Agent may make reasonable rules for their functions.

Section 12.08 Legal Holidays. A "Legal Holiday" is any day other than a Business Day. If any specified date (including a date for giving notice) is a Legal Holiday, the action shall be taken on the next succeeding day that is not a Legal Holiday, and, if the action to be taken on such date is a payment in respect of the Securities, no interest shall accrue for the intervening period.

Section 12.09 GOVERNING LAW; WAIVER OF JURY TRIAL. THIS INDENTURE, THE SECURITIES AND THE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING NEW YORK GENERAL OBLIGATION LAW §5-1401 AND ANY SUCCESSOR THERETO). EACH PARTY HERETO, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE, THE SECURITIES OR GUARANTEES OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

Section 12.10 Jurisdiction; Consent to Service of Process. (a) Each of the Company and the Guarantors hereby irrevocably and unconditionally submits, for each of them and their property, to the general jurisdiction of the New York State courts or the federal courts of the United States of America for the Southern District of New York, in each case sitting in the Borough of Manhattan, City of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Indenture, the Securities or the Guarantees, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other or in any other manner provided by law. Nothing in this Indenture shall affect any right that any Holder may otherwise have to bring any action or proceeding relating to this Indenture, the Securities and the Guarantees against the Company, the Guarantors or their respective properties in the courts of any jurisdiction.

(b) Each of the Company and the Guarantors hereby irrevocably and unconditionally waives, and agrees not to plea or claim, to the fullest extent they may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture, the Securities or the Guarantees in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 12.11 No Recourse Against Others. A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Securityholder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Securities.

Section 12.12 Successors. All agreements of the Company and each Guarantor in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor, subject to Section 7.07.

Section 12.13 Counterparts; Multiple Originals. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of the signature pages hereto by facsimile or electronic mail transmission of portable document format (PDF) files or tagged image file format (TIF) files shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties transmitted by facsimile or electronic mail of portable document format (PDF) files or tagged image file format (TIF) files shall be deemed to be their original signatures for all purposes.

Section 12.14 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 12.15 U.S.A. PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each Person that establishes a relationship or opens an account with the Trustee. The Company and each Guarantor agrees it will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. PATRIOT Act.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Indenture on behalf of the respective parties hereto as of the date first above written.

COMPANY:

PATRIOT COAL CORPORATION

By:_____
Name:
Title:

GUARANTORS:

APPALACHIA MINE SERVICES, LLC
BEAVER DAM COAL COMPANY, LLC
BIG EAGLE, LLC
BIG EAGLE RAIL, LLC
BLACK STALLION COAL COMPANY, LLC
BLUEGRASS MINE SERVICES, LLC
BRODY MINING, LLC
BROOK TROUT COAL, LLC
CATENARY COAL COMPANY, LLC
CENTRAL STATES COAL RESERVES OF KENTUCKY, LLC
CLEATON COAL COMPANY
COAL CLEAN LLC
COAL PROPERTIES, LLC
COAL RESERVE HOLDING LIMITED LIABILITY COMPANY NO. 2
COOK MOUNTAIN COAL COMPANY, LLC
CORYDON RESOURCES LLC
COVENTRY MINING SERVICES, LLC
COYOTE COAL COMPANY LLC
CUB BRANCH COAL COMPANY LLC
DIXON MINING COMPANY, LLC
DODGE HILL HOLDING JV, LLC
DODGE HILL MINING COMPANY, LLC
DODGE HILL OF KENTUCKY, LLC
EASTERN COAL COMPANY, LLC
EASTERN ROYALTY, LLC
EMERALD PROCESSING, L.L.C.
GRAND EAGLE MINING, LLC
HILLSIDE MINING COMPANY
INDIAN HILL COMPANY LLC
INFINITY COAL SALES, LLC
INTERIOR HOLDINGS, LLC
IO COAL LLC
JUPITER HOLDINGS LLC
KANAWHA EAGLE COAL, LLC
KANAWHA RIVER VENTURES I, LLC
KANAWHA RIVER VENTURES II, LLC
KANAWHA RIVER VENTURES III, LLC
KE VENTURES, LLC
LITTLE CREEK LLC
LOGAN FORK COAL COMPANY
MAGNUM COAL COMPANY LLC
MAGNUM COAL SALES LLC
MIDLAND TRAIL ENERGY LLC
MIDWEST COAL RESOURCES II, LLC
NEWTOWN ENERGY, INC.
NEW TROUT COAL HOLDINGS II, LLC

NORTH PAGE COAL CORP.
OHIO COUNTY COAL COMPANY, LLC
PANTHER LLC
PATRIOT BEAVER DAM HOLDINGS, LLC
PATRIOT COAL COMPANY, L.P.
PATRIOT COAL SALES LLC
PATRIOT COAL SERVICES LLC
PATRIOT LEASING COMPANY LLC
PATRIOT MIDWEST HOLDINGS, LLC
PATRIOT RESERVE HOLDINGS, LLC
PATRIOT TRADING LLC
PATRIOT VENTURES LLC
PCX ENTERPRISES, INC.
POND CREEK LAND RESOURCES, LLC
POND FORK PROCESSING LLC
REMINGTON HOLDINGS LLC
REMINGTON II LLC
REMINGTON LLC
RHINO EASTERN JV HOLDING COMPANY LLC
ROBIN LAND COMPANY, LLC
SENTRY MINING, LLC
SNOWBERRY LAND COMPANY
SPEED MINING LLC
TC SALES COMPANY, LLC
THE PRESIDENTS ENERGY COMPANY LLC
THUNDERHILL COAL LLC
TROUT COAL HOLDINGS, LLC
UNION COUNTY COAL CO., LLC
VIPER LLC
WEATHERBY PROCESSING LLC
WILDCAT, LLC
WILDCAT ENERGY LLC
WILL SCARLET PROPERTIES LLC
WINCHESTER LLC
WINIFREDE DOCK LIMITED LIABILITY COMPANY
WWMV JV HOLDING COMPANY LLC

as Guarantors

Executing this Indenture as an authorized officer of each of the 82 foregoing entities on behalf of and so as to bind the entities named above under the caption “Guarantors”

By: _____
Name:
Title:

ADDITIONAL GUARANTORS:

AFFINITY MINING COMPANY
APOGEE COAL COMPANY, LLC
BLACK WALNUT COAL COMPANY
CHARLES COAL COMPANY, LLC
COLONY BAY COAL COMPANY
DAKOTA LLC
DAY LLC
EASTERN ASSOCIATED COAL, LLC
GATEWAY EAGLE COAL COMPANY, LLC
HERITAGE COAL COMPANY LLC
HIGHLAND MINING COMPANY, LLC
HOBET MINING, LLC
JARRELL'S BRANCH COAL COMPANY
MARTINKA COAL COMPANY, LLC
MOUNTAIN VIEW COAL COMPANY, LLC
PINE RIDGE COAL COMPANY, LLC
RIVERS EDGE MINING, INC.
STERLING SMOKELESS COAL COMPANY, LLC
YANKEETOWN DOCK, LLC

as Guarantors

Executing this Indenture as an authorized officer of each of the 19 foregoing entities on behalf of and so as to bind the entities named above as "Guarantors"

By: _____
Name:
Title:

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:_____
Name:
Title:

Schedule A

For the six month periods ending on the dates set forth below following the Issue Date:

Repurchase Period	**Percentage**
June 18, 2014	315%
December 18, 2014	298%
June 18, 2015	281%
December 18, 2015	265%
June 18, 2016	251%
December 18, 2016	237%
June 18, 2017	223%
December 18, 2017	211%
June 18, 2018	199%
December 18, 2018	188%
June 18, 2019	178%
December 18, 2019	168%
June 18, 2020	158%
December 18, 2020	149%
June 18, 2021	141%
December 18, 2021	133%
June 18, 2022	126%
December 18, 2022	119%
June 18, 2023	112%
December 15, 2023	106%

EXHIBIT A

[FORM OF FACE OF SECURITY]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBJECT TO AND IN THE MANNER AND TO THE EXTENT SET FORTH IN, THAT CERTAIN COLLATERAL TRUST AGREEMENT DATED AS OF DECEMBER 18, 2013 AMONG, INTER ALIOS, PATRIOT COAL CORPORATION AND U.S. BANK NATIONAL ASSOCIATION, AS COLLATERAL TRUSTEE, AND EACH HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE COLLATERAL TRUST AGREEMENT.

[GLOBAL SECURITY LEGEND]

THIS GLOBAL SECURITY IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS SECURITY) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO Section 2.06(g) OF THE INDENTURE, (II) THIS GLOBAL SECURITY MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(A) OF THE INDENTURE, (III) THIS GLOBAL SECURITY MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.10 OF THE INDENTURE AND (IV) THIS GLOBAL SECURITY MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE

DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

[PRIVATE PLACEMENT LEGEND]

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (5) PURSUANT TO ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED ON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

[REGULATION S TEMPORARY GLOBAL SECURITY LEGEND]

THIS GLOBAL SECURITY IS A TEMPORARY GLOBAL SECURITY FOR PURPOSES OF REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. NEITHER THIS TEMPORARY GLOBAL SECURITY NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD OR DELIVERED, EXCEPT AS PERMITTED UNDER THE INDENTURE REFERRED TO BELOW.

NO BENEFICIAL OWNERS OF THIS TEMPORARY GLOBAL SECURITY SHALL BE ENTITLED TO RECEIVE PAYMENT OF PRINCIPAL OR INTEREST HEREON UNLESS THE REQUIRED CERTIFICATIONS HAVE BEEN DELIVERED PURSUANT TO THE TERMS OF THE INDENTURE.

[OID LEGEND]

THIS SECURITY HAS BEEN ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR PURPOSES OF SECTIONS 1271 ET SEQ. OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE DATE OF THIS SECURITY IS DECEMBER 18, 2013. FOR INFORMATION REGARDING THE ISSUE PRICE, THE YIELD TO MATURITY AND THE AMOUNT OF OID PER $1,000 OF PRINCIPAL AMOUNT, PLEASE CONTACT THE COMPANY AT PATRIOT COAL CORPORATION, 12312 OLIVE BOULEVARD, SUITE 400, ST. LOUIS, MISSOURI 63141, ATTENTION: CHIEF FINANCIAL OFFICER.

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

No.: [ ] CUSIP:

Issue Date: December 18, 2013 Principal Amount: $[ ]

PATRIOT COAL CORPORATION, a Delaware corporation, promises to pay to [ ][1] or registered assigns, the Principal Amount [of [ ] Dollars ($[ ])][as set forth on Schedule I hereto][2], on December 15, 2023 (the "Stated Maturity"), subject to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Interest Payment Dates: June 15 and December 15, commencing June 15, 2014

Record Dates: June 1 and December 1.

PATRIOT COAL CORPORATION

By:_____
Name: _____
Title: _____

[1] Insert "Cede & Co." for Global Securities.

[2] Insert latter bracketed language for Global Securities.

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

Dated: _____

[FORM OF REVERSE SIDE OF SECURITY]

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

(1) Interest.

This Security shall accrue interest at an initial rate of 15.0% per annum. The Company promises to pay interest on the Securities entirely by (i) paying cash ("Cash Interest") or (ii) by increasing the principal amount of the outstanding Securities or by issuing PIK Securities ("PIK Interest") semiannually on each June 15 and December 15, commencing June 15, 2014, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "interest payment date"). Interest on the Securities will accrue from the most recent date to which interest has been paid, or if no interest has been paid, from December 18, 2013, until the Principal Amount is paid or duly made available for payment. The Company will pay interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) on any overdue Principal Amount or the Acceleration Premium at the interest rate borne by the Securities at the time such interest on the overdue Principal Amount accrues, compounded semiannually, and it shall pay interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) on overdue installments of premium, interest at the same interest rate compounded semiannually, in each case, in cash. Interest on the Securities will be computed on the basis of a 360-day year comprised of twelve 30-day months.

With respect to interest on the Securities for a semi-annual period due on an interest payment date, the Company may elect, at its option, to pay interest due on the Securities on such interest payment date (i) entirely in cash at the rate of 15.0% per annum ("Cash Interest Payment") or (ii) entirely in PIK Interest at the rate of 15.0% per annum ("PIK Interest Payment"). In order to elect to pay Cash Interest on any interest payment date, the Company must deliver a notice of its election to the Trustee no later than 15 days prior to any interest payment date (the "Cash Election Deadline") specifying that it is electing a Cash Interest Payment (and if the Company does not deliver such notice on or prior to the Cash Election Deadline, then a PIK Interest Payment shall be made on such interest payment date).

PIK Interest on the Securities will be payable in the manner set forth in Section 2.14 of the Indenture. Following an increase in the Principal Amount of the outstanding Global Securities as a result of the payment of PIK Interest, the Global Securities will bear interest on such increased Principal Amount from and after the date of such payment. Any PIK Securities issued in certificated form or as new Global Securities will be dated as of the applicable interest payment date and will bear interest from and after such date. All PIK Securities issued will mature on December 15, 2023 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Securities issued on the Issue Date. Any certificated PIK Securities will be issued with the description "PIK" on the face of such PIK Security.

(2) Method of Payment.

PIK Interest shall be paid in the manner provided in paragraph 1. Any payment of PIK Interest shall be considered paid on the date it is due if on such date (1) if PIK Securities (including PIK Securities that are Global Securities) have been issued therefor, such PIK Securities have been authenticated in accordance with the terms of the Indenture and (2) if the payment is made by increasing the Principal Amount of Global Securities then authenticated, the Trustee has increased the Principal Amount of Global Securities then authenticated by the relevant amount.

The Company will pay interest on this Security (except defaulted interest) to the Person who is the registered Holder of this Security at the close of business on June 1 or December 1, as the case may be, next preceding the related interest payment date. Subject to the terms and conditions of the Indenture, the Company will make payments in respect of Principal Amount and premium, if any, to the Holder who surrenders a Security to the Paying Agent with respect to payments in cash in respect of the Principal Amount or premium, if any. The Company will pay all cash amounts due on the Securities in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay interest and the Principal Amount and premium, if any, to the extent such amounts are permitted by the terms of this Security and the Indenture to be paid in cash, by check or wire payable in such money; *provided, however,* that a Holder holding Securities with an aggregate Principal Amount in excess of $1,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder. The Company may mail an interest check for the payment of cash interest to the Holder's registered address. Notwithstanding the foregoing, so long as this Security is registered in the name of a Depositary or its nominee, all payments of cash hereon shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

(3) Paying Agent and Registrar.

Initially, U.S. Bank National Association, as Trustee (the "Trustee"), will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent or Registrar without notice, other than notice to the Trustee. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent or Registrar.

(4) Indenture.

The Company issued the Securities under an Indenture dated as of December 18, 2013 (as amended or supplemented from time to time in accordance with the terms thereof and of this Security, the "Indenture"), between the Company and the Trustee. The terms of the Securities include those stated in the Indenture and, in the event the Indenture is qualified under the Trust Indenture Act of 1939, as in effect from time to time (the "TIA"), those expressly made part of the Indenture by reference to the TIA. Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture. The Securities are subject to all such terms, and Securityholders are referred to the Indenture and the TIA (to the extent the Indenture is qualified under the TIA and as applicable) for a statement of those terms.

The Securities will be secured by the Collateral on the terms and subject to the conditions set forth in the Indenture, the Junior Lien Intercreditor Agreement and the other Collateral

Documents, such security interests and Liens to have such priority as is set forth in the Indenture, the Junior Lien Intercreditor Agreement and the other Collateral Documents. The Collateral Trustee shall hold the Collateral for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement), in each case pursuant to the Collateral Documents. Each Holder, by accepting this Security, consents and agrees to the matters set forth in Section 11.01 of the Indenture which relate to the Collateral Documents and the Collateral Trustee.

(5) No Redemption.

No sinking fund is provided for the Securities. The Company does not have the right to redeem the Securities.

(6) Ranking and Collateral

These Securities and the Guarantees will be secured by a Lien and security interest in the Collateral on a Lien priority basis directly after, and immediately following, the Lien securing the Senior-Lien Obligations (and will be subject only to Permitted Liens), the foregoing pursuant to and in accordance with the terms of the Indenture, the Junior Lien Intercreditor Agreement and other applicable Collateral Documents.

(7) [Reserved].

(8) Denominations; Transfer; Exchange.

The Securities are in fully registered form, without coupons, in minimum denominations of $1.00 of Principal Amount and integral multiples of $1.00 thereof. A Holder may transfer or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

(9) Persons Deemed Owners.

The registered Holder of this Security may be treated as the owner of this Security for all purposes.

(10) Unclaimed Money or Securities.

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the money or securities must look to the Company, for payment as general creditors unless an applicable abandoned property law designates another Person.

(11) Amendment; Waiver.

The Indenture and this Security may be amended as provided in Article IX of the Indenture.

(12) Defaults and Remedies.

Events of Default are set forth in Article VI of the Indenture. Securityholders may not enforce the Indenture or the Securities except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Securities unless it receives indemnity or security satisfactory to the Trustee, in its sole discretion. Subject to certain limitations, Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Securityholders notice of any continuing Default (except as otherwise provided in the Indenture) if it determines that withholding notice is in their interests.

(13) Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA (in the event the Indenture is qualified thereunder), the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

(14) No Recourse Against Others.

A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Securityholder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Securities.

(15) Authentication.

This Security shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's Certificate of Authentication on the other side of this Security.

(16) Abbreviations.

Customary abbreviations may be used in the name of a Securityholder or an assignee, such as TEN COM ("tenants in common"), TENENT ("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").

(17) Governing Law.

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THIS SECURITY.

The Company will furnish to any Securityholder upon written request and without charge a copy of the Indenture which has in it the text of this Security in larger type. Requests may be made to:

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141
Attn.: Chief Financial Officer

ASSIGNMENT FORM

To assign this Security, fill in the form below: I or we assign and transfer this Security to:

_____

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

_____

_____

_____

_____

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

and irrevocably appoint:

_____

agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

SCHEDULE I[3]

SCHEDULE OF INCREASES OR DECREASES IN THE GLOBAL SECURITY*

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

The initial outstanding principal amount of this Global Security is $_____. The following exchanges of a part of this Global Security for an interest in another Global Security or for a Certificated Security, or exchanges of a part of another Global or Certificated Security for an interest in this Global Security, or increase/decrease in the principal amount of this Global Security, have been made:

Date of Exchange or Increase/Decrease	Amount of decrease in Principal Amount of this Global Security	Amount of increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such decrease or increase	Signature of authorized officer of Trustee or Custodian

[3] To be included in Global Securities only.

EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U.S. Bank National Association, as trustee
333 Commerce Street, Suite 800
Nashville, Tennessee 37201
Attention: Global Corporate Trust Services

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

Reference is hereby made to the Indenture, dated as of December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

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

[CHECK ALL THAT APPLY]

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

2. ☐ Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Security or a Definitive Security pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a

person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Security will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Regulation S Temporary Global Security, the Regulation S Global Security and/or the Definitive Security and in the Indenture and the Securities Act.

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

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

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

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

(d) ☐ such Transfer is being effected to an Accredited Investor or an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Security or Restricted Definitive Securities and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Securities at the time of transfer of less than $250,000 or if such Transfer is to an Accredited Investor that is not an Institutional Accredited Investor, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the transferor has attached to this certification), to the effect that

such Transfer is in compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Security will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Securities and in the Indenture and the Securities Act.

4. ☐ Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Security or of an Unrestricted Definitive Security.

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

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

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

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

_____

[Insert Name of Transferor]

By: _____

Name: _____

Title: _____

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

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

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

(a) ☐ a beneficial interest in the:

(i) ☐ 144A Global Security (CUSIP _____), or

(ii) ☐ Regulation S Global Security (CUSIP _____), or

(iii) ☐ Accredited Investor Global Security (CUSIP _____), or

(b) ☐ a Restricted Definitive Security.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) ☐ a beneficial interest in the :

(i) ☐ 144A Global (CUSIP _____), or

(ii) ☐ Regulation S Global (CUSIP _____), or

(iii) ☐ Accredited Investor Global Security (CUSIP _____), or

(iv) ☐ Unrestricted Global Security (CUSIP _____), or

(b) ☐ a Restricted Definitive Security.

(c) ☐ an Unrestricted Definitive Security.

in accordance with the terms of the Indenture.

EXHIBIT C

FORM OF CERTIFICATE OF EXCHANGE

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U.S. Bank National Association, as trustee
333 Commerce Street, Suite 800
Nashville, Tennessee 37201
Attention: Global Corporate Trust Services

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

(CUSIP [●])

Reference is hereby made to the Indenture, dated as of December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "Owner") owns and proposes to exchange the Security or Securities or interest in such Security or Securities specified herein, in the principal amount of $ in such Security or Securities or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. ☐ Exchange of Restricted Definitive Securities or Beneficial Interests in a Restricted Global Security for Unrestricted Definitive Securities or Beneficial Interests in an Unrestricted Global Security

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

(b) ☐ Check if Exchange is from beneficial interest in a Restricted Global Security to Unrestricted Definitive Security. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Security for an Unrestricted Definitive Security, the Owner hereby certifies (i) the Definitive Security is being acquired for the Owner's own account

without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Securities and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Security is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

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

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

2. ☐ Exchange of Restricted Definitive Securities or Beneficial Interests in Restricted Global Securities for Restricted Definitive Securities or Beneficial Interests in Restricted Global Securities

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

(b) ☐ Check if Exchange is from Restricted Definitive Security to beneficial interest in a Restricted Global Security. In connection with the Exchange of the Owner's Restricted Definitive Security for a beneficial interest in the [CHECK ONE] [ ] 144A Global

Security, or [ ] Regulation S Global Security, or [ ] Accredited Investor Global Security the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Securities and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Security and in the Indenture and the Securities Act.

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

_____

[Insert Name of Transferor]

By: _____

Name: _____

Title: _____

Dated: _____

EXHIBIT D

**FORM OF CERTIFICATE FROM
ACQUIRING ACCREDITED INVESTOR**

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U. S. Bank National Association, as trustee
333 Commerce Street, Suite 800
Nashville, Tennessee 37201
Attention: Global Corporate Trust Services

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

Reference is hereby made to the Indenture, dated as of December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

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

(a) ☐ a beneficial interest in a Global Security, or

(b) ☐ a Definitive Security,

we confirm that:

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

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

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

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

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

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

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

_____

[Insert Name of Transferee]

By: _____

Name: _____

Title: _____

Dated: _____

EXHIBIT E

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "SUPPLEMENTAL INDENTURE"), dated as of , among [GUARANTOR] (the "NEW GUARANTOR"), a subsidiary of Patriot Coal Corporation (or its successor), a Delaware corporation (the "COMPANY"), the Company, and U.S. Bank National Association, as trustee under the Indenture referred to below (together with its successors and assigns, in such capacity, the "TRUSTEE").

WITNESSETH:

WHEREAS, the Company has heretofore executed and delivered to the Trustee an Indenture (as such may be amended from time to time, the "INDENTURE"), dated as of December 18, 2013, providing for the issuance of 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023 (the "SECURITIES");

WHEREAS, Section 4.09 and Section 10.08 of the Indenture provide that the Company is required to cause the New Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which the New Guarantor shall jointly and severally and unconditionally and irrevocably guarantee all of the Company's Securities Obligations pursuant to a Guarantee contained in the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee, the Company and the New Guarantor are authorized to execute and deliver this Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Guarantor, the Company and the Trustee mutually covenant and agree for the equal and ratable benefit of the holders of the Securities as follows:

1. Definitions. (a) Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

(b) For all purposes of this Supplemental Indenture, except as otherwise herein expressly provided or unless the context otherwise requires: (i) the terms and expressions used herein shall have the same meanings as corresponding terms and expressions used in the Indenture; and (ii) the words "HEREIN," "HEREOF" and "HEREBY" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. Agreement to Guarantee. The New Guarantor hereby agrees, jointly and severally and unconditionally and irrevocably, with all other Guarantors, to guarantee the Company's Securities Obligations on the terms and subject to the conditions set forth in Article X of the Indenture and to be bound by all other applicable provisions of the Indenture. From and after the date hereof, the New Guarantor shall be a Guarantor for all purposes under the Indenture and the Securities.

3. Ratification of Indenture; Supplemental Indentures Part of Indentures. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities heretofore or hereafter authenticated and delivered shall be bound hereby.

4. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. Trustee Makes No Representation. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture.

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

7. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

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

GUARANTORS:

[NEW GUARANTOR]

By:_____
Name: _____
Title: _____

COMPANY:

PATRIOT COAL CORPORATION

By:_____
Name: _____
Title: _____

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:_____
Name: _____
Title: _____

Comparison

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

INDENTURE

Dated as of ~~[~~~~]~~December 18, 2013

among

PATRIOT COAL CORPORATION,
as ISSUER,

THE SUBSIDIARIES PARTY HERETO,
as GUARANTORS,

and

U.S. BANK NATIONAL ASSOCIATION,
as TRUSTEE~~ AND COLLATERAL AGENT~~

TRUST INDENTURE ACT OF 1939, AS AMENDED ("TIA")
CROSS-REFERENCE TABLE

TIA	Section	Indenture Section
310	(a)(1)	Section 7.10
	(a)(2)	Section 7.10
	(a)(3)	N.A.
	(a)(4)	N.A.
	(a)(5)	N.A.
	(b)	Section 7.08, Section 7.10
	(c)	N.A.
311	(a)	Section 7.11
	(b)	Section 7.11
	(c)	N.A.
312	(a)	Section 2.05
	(b)	Section 12.03
	(c)	Section 12.03
313	(a)	Section 7.06
	(b)(1)	Section 7.06
	(b)(2)	Section 7.06
	(c)	Section 7.06
	(d)	Section 7.06
314	(a)	Section 4.02, Section 4.03
	(b)	Section 11.05
	(c)(1)	Section 11.05, Section 12.04
	(c)(2)	Section 11.05, Section 12.04
	(c)(3)	Section 11.05
	(d)	Section 11.05
	(e)	Section 12.05
	(f)	N.A.
315	(a)	Section 7.01(b)
	(b)	Section 7.05
	(c)	Section 7.01
	(d)	Section 7.01(c)
	(e)	Section 6.11
316	(a)(1)(A)	Section 6.05
	(a)(1)(B)	Section 6.04
	(a)(2)	N.A.
	(b)	Section 6.07
	(c)	Section 1.05(e)
317	(a)(1)	Section 6.08
	(a)(2)	Section 6.09
	(b)	Section 2.04
318	(a)	Section 12.01

N.A. means not applicable.

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be a part of this Indenture.

TABLE OF CONTENTS

INDENTURE, dated as of [ ]December 18, 2013, among PATRIOT COAL CORPORATION, a Delaware corporation, as issuer (the "Company"), certain of the Company's Domestic Subsidiaries from time to time party hereto, as guarantors, and U.S. BANK NATIONAL ASSOCIATION, as trustee (together with its successors and assigns, in such capacity, the "Trustee").

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Company's 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023:

ARTICLE I
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

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

"ABL Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"ABL Credit Agreement" means that (i) certain Credit Agreement dated as of the Issue Date by and among the Company, as the parent borrower, certain of its Subsidiaries party thereto as co-borrowers, certain of its Subsidiaries as guarantors party thereto, the lenders and other Persons party thereto from time and time and Deutsche Bank AG New York Branch, as administrative agent, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, ~~and~~ (ii) any other ABL Credit Agreement (as defined in the Junior Lien Intercreditor Agreement) and (iii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and ~~as otherwise permitted under the Senior Priority Lien Intercreditor Agreement and~~ so long as such Indebtedness is otherwise permitted under Section 4.10(b)(ii) hereof.

"ABL Bank Product Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"ABL Hedging Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

~~[~~"Acceleration Premium" shall mean, in connection with any accelerated payment of any of the Securities pursuant to Article VI of this Indenture or the Securities, the aggregate present value as of the date of such accelerated payment of the amount of unpaid interest (exclusive of interest that has been accrued to the date of such accelerated payment, but inclusive of any interest that would have become payable on PIK Securities or on any

increased principal amount of Securities as a result of the payment of PIK Interest if such accelerated payment had not been made) that would have been payable in respect of the principal amount of the Securities (including any PIK Securities or any increase in the principal amount of the Securities as a result of the payment of PIK Interest), then outstanding, with the present value determined by discounting, on a semi-annual basis, such interest at the Reinvestment Rate (determined on the third Business Day preceding the date such declaration of acceleration is made) from the respective dates on which such interest payments would have been payable if such accelerated payment had not been made.]

"Accredited Investor" means an entity or natural person that is an "accredited investor" as defined in Rule 501(a) under the Securities Act, who is not also a QIB.

"Accredited Investor Global Security" means the global security substantially in the form of Exhibit A hereto bearing the Global Security Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Securities sold to Accredited Investors.

"Acquired Indebtedness" means, with respect to any specified Person:

(1) Indebtedness of a Person existing at the time the Person is acquired by, or merges with or into, the Company or any Restricted Subsidiary or becomes a Restricted Subsidiary, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Additional Assets" means all or substantially all of the assets of a Permitted Business, or Voting Stock of another Person engaged in a Permitted Business that will, on the date of acquisition, be a Restricted Subsidiary, or other assets (other than cash and Cash Equivalents, securities (including Equity Interests) or assets classified as current assets under GAAP) that are to be used in a Permitted Business of the Company or one or more of its Restricted Subsidiaries.

"Additional Securities" means Securities (other than the Initial Securities) issued under this Indenture in accordance with Section 2.02 and Section 4.10 hereof, as part of the same series as the Initial Securities.

"Adjusted Net Assets" of a Guarantor at any date means the amount by which the fair value of the assets and other property of such Guarantor exceeds the total amount of liabilities, including, without limitation, contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under its Guarantee, of such Guarantor at such date.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "Control" when used with respect to any specified

Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities or by contract; and the terms "Controlling" and "Controlled" have meanings correlative to the foregoing. Solely for purposes of Section 2.08, no Person will be deemed to "Control" another Person solely by virtue of their ownership of less than ~~[~~35~~]~~ percent of the voting power of the voting securities of such other Person or by virtue of their ownership of nonvoting securities convertible into the voting securities of such other Person.

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

"Arch Settlement Documents" means, collectively, (a) the Settlement Agreement, dated October 23, 2013, by and among the Company, the Subsidiaries of the Company party thereto and Arch Coal, Inc, as amended, restated, supplemented or otherwise modified from time to time (the "Arch Settlement Agreement"), (b) the Surety Agreement, dated November 27, 2012, by and among Arch Coal, Inc., Magnum Coal Company LLC and the Company, as amended pursuant to the Arch Settlement Agreement, and (c) each other Settlement Document (under and as defined in the Arch Settlement Agreement), in each case, as has been or is hereafter amended, restated, supplemented or otherwise modified from time to time.

"Asset Sale" means any sale, lease (other than Capital Leases), transfer or other disposition of any assets by the Company or any Restricted Subsidiary, including by means of a merger, consolidation or similar transaction and including any sale or issuance of the Equity Interests of any Restricted Subsidiary but not of the Company (each of the above referred to as a "disposition").

Notwithstanding the preceding, the following items shall not be deemed to be Asset Sales:

(1) a disposition to the Company or a Restricted Subsidiary that is a Guarantor, including the sale or issuance by the Company or any Restricted Subsidiary of any Equity Interests of any Restricted Subsidiary, to the Company or any Restricted Subsidiary that is a Guarantor;

(2) the sale or discount of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof~~[, and dispositions of Receivables and related assets in connection with a Permitted Receivables Financing]~~;

(3) operating leases (other than Sale and Leaseback Transactions) entered into in the ordinary course of a mining business;

(4) a transaction covered by Section 5.01;

(5) a Restricted Payment permitted under Section 4.11 or a Permitted Investment;

(6) any transfer of property or assets that consists of grants by the Company or its Restricted Subsidiaries in the ordinary course of business of assignments, licenses or sub-licenses, including with respect to intellectual property rights;

(7) the sale, lease or sublease by the Company and its Restricted Subsidiaries of real property solely to the extent that such real property is not necessary for the normal conduct of operations of the Company and its Restricted Subsidiaries;

(8) the granting of a Lien permitted under the terms hereof or the foreclosure of assets of the Company or any of its Restricted Subsidiaries to the extent not constituting a Default;

(9) the sale or other disposition of cash or Cash Equivalents;

(10) the unwinding of any Hedging Agreements;

(11) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;

(12) the issuance of Disqualified Stock or Preferred Stock of a Restricted Subsidiary pursuant to Section 4.10 hereof;

(13) (a) the sale of used, damaged, obsolete, unusable, surplus or worn out equipment or equipment that is no longer needed in the conduct of the business of the Company and its Restricted Subsidiaries, (b) sales of inventory, used or surplus equipment or reserves and dispositions related to the burn-off of mines or (c) the abandonment or allowance to lapse or expire or other disposition of intellectual property by the Company and its Restricted Subsidiaries in the ordinary course of business;

(14) the sale of equipment to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such sale are reasonably promptly applied to the purchase price of such replacement property;

(~~14~~15) any disposition in a transaction or series of related transactions of assets with a Fair Market Value of less than $~~[~~5,000,000~~]~~;

(~~15~~16) the sale of Equity Interests of an Unrestricted Subsidiary;~~ and~~

(~~16)~~ 17) any Permitted Land Swap or any other dispositions of assets by virtue of an asset exchange or swap with a third party in any transaction (x) with an aggregate fair market value less than or equal to $~~[~~12,500,000~~]~~, (y) involving a coal-for-coal swap or (z) consisting of a coal swap involving any Real Property~~.~~;

(18) so long as no Default shall occur and be continuing, the grant of any option or other right to purchase any asset in a transaction that would be otherwise not deemed an Asset Sale under this definition of Asset Sale;

(19) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangement between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements; and

(20) Disposition of the South Guffey Reserve as provided for in the Arch Settlement Documents.

"Attributable Indebtedness" means, at any date, in respect of Capital Leases of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared in accordance with GAAP.

"Backstop Agreement" means the Backstop Rights Purchase Agreement, dated as of November 4, 2013, by and among the Company, the other entities set forth in Schedule 1 thereto, each of the signatories thereto and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees set forth on the signature pages thereto, and each Person executing a joinder thereto substantially in the form of Exhibit A thereto, as such agreement may be amended, supplemented or otherwise modified.

"Backstop Parties" means Davidson Kempner Capital Management LLC, on behalf of certain funds and accounts it manages and/or advises, and Knighthead Capital Management, LLC, on behalf of certain funds and accounts it manages and/or advises.

~~[~~"Bank Group Cash Management Obligations" has the meaning set forth in the Senior Priority Lien Intercreditor Agreement, as in effect on the Issue Date.

~~"Bank Group Priority Documents" has the meaning set forth in the Senior Priority Lien Intercreditor Agreement.~~

~~"Bank Group Obligations" has the meaning set forth in the Senior Priority Lien Intercreditor Agreement.~~

~~"Bank Group Representative" has the meaning set forth in the Senior Priority Lien Intercreditor Agreement.~~

"Bank Indebtedness" means any and all amounts payable under or in respect of the ABL Credit Agreement, the ~~Term/~~LC/Term Credit Agreement and the other Credit Agreement Documents as amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of any of the ABL Credit Agreement and the ~~Term/~~LC/Term Credit Agreement), including principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company whether or not a claim for post-filing interest is allowed in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect thereof.~~]~~

"Bankruptcy Code" means the Bankruptcy Reform Act of 1978, as amended.

"Bankruptcy Court" means the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division.

"Bankruptcy Proceedings" means the reorganization proceedings of the Company and certain of its Subsidiaries, as debtors, under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

"Board of Directors" means:

(1) with respect to the Company, its board of directors; and

(2) with respect to any other Person, (i) if the Person is a corporation, the board of directors of the corporation, (ii) if the Person is a partnership, the Board of Directors of the general partner of the partnership and (iii) with respect to any other Person, the board, committee or members of such Person serving a similar function.

"Board Resolution" means a copy of one or more resolutions, certified by an Officer of the Company to have been duly adopted or consented to by the Board of Directors and to be in full force and effect, and delivered to the Trustee.

"Business Day" means a day, other than a Saturday or Sunday, that in The City of New York or at a place of payment is not a day on which banking institutions are authorized or required by law, regulation or executive order to close.

"Capital Expenditures" has the meaning set forth in the ABL Credit Agreement, as in effect on the Issue Date.

"Capital Lease" means, with respect to any Person, any lease of any property which, in conformity with GAAP, is required to be capitalized on the balance sheet of such Person *provided* that, for the avoidance of doubt, any obligations relating to a lease that was accounted for by such Person as an operating lease as of the Issue Date and any similar lease entered into after the Issue Date by such Person shall be accounted for as an operating lease and not a Capital Lease.

"Capital Lease Obligations" means of any Person as of the date of determination, the aggregate liability of such Person under Capital Leases reflected on a balance sheet of such Person under GAAP.

"Capital Stock" means:

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

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

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

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person;

provided, *however*, that all convertible Indebtedness shall be deemed Indebtedness, and not Capital Stock, unless and until the applicable part of any such Indebtedness is converted into Capital Stock.

"Cash Equivalents" means:

(1) United States dollars, or money in other currencies;

(2) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding two years from the date of acquisition;

(3) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of one year or less from the date of acquisition, (iii) bankers' acceptances with maturities not exceeding one year from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust organized or licensed under the laws of the United States or any state thereof (including any branch of a foreign bank licensed under any such laws) having capital, surplus and undivided profits in excess of $500,000,000 (or the foreign currency equivalent thereof) whose short-term debt is rated "A-2" or higher by S&P or "P-2" or higher by Moody's;

(4) commercial paper maturing within 364 days from the date of acquisition thereof and having, at such date of acquisition, ratings of at least A-1 by S&P or P-1 by Moody's;

(5) readily marketable direct obligations issued by any state, commonwealth or territory of the U.S. or any political subdivision thereof, in each case with an Investment Grade Rating by S&P or Moody's with maturities not exceeding one year from the date of acquisition;

(6) investment funds substantially all of the assets of which consist of investments of the type described in clauses (1) through (5) above; and

(7) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (2) above and entered into with a financial institution satisfying the criteria described in clause (3) above.

"Certificated Securities" means Securities that are issued in definitive form in the form of the Securities attached hereto as Exhibit A.

"Change of Control" means the occurrence of either of the following:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Company and its Subsidiaries, taken as a whole, to any Person;

(2) prior to an Initial Public Offering, the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any ~~Person~~"person" or "group" (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision, but excluding any employee benefit plan of such ~~Person~~person or its subsidiaries, and any ~~Person~~person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than a Permitted Holder, including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the Voting Stock of the Company;

(3) after an Initial Public Offering, the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any ~~Person~~"person" or "group" (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision, but excluding any employee benefit plan of such ~~Person~~person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than a Permitted Holder, including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 35% of the total voting power of the Voting Stock of the Company if such ~~Person~~person or group also holds a greater percentage than the Permitted Holders hold, on an aggregate basis, of the total voting power of the Voting Stock of the Company; or

(4) ~~[~~during any period of 12 consecutive months,~~]~~ a majority of the members of the ~~Company's~~ Board of Directors ~~are not Continuing Directors~~of the Company cease to be composed of individuals (i) who were members of the Board of Directors on the first day of such period, (ii) whose election or nomination to the Board of Directors was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of the Board of Directors or (iii) whose election or nomination to the Board of Directors was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of the Board of Directors (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of the Board of Directors occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the Board of Directors).

; *provided* that for the avoidance of doubt, in each of the above, none of the transactions contemplated in the Plan Confirmation Order~~,~~ or the Plan of Reorganization ~~or [_____]~~ shall constitute, or be deemed to constitute, a Change of Control.

"Clearstream" means Clearstream Banking, Société Anonyme.

"Coal" means coal owned by the Company or any Guarantor, or coal that the Company or any Guarantor has the right to extract, in each case located on, under or within, or produced or extracted from the Real Property of the Company or any Guarantor.

"Collateral" means any and all property owned, leased or operated by ~~a Person covered~~the Company or a Guarantor and subject to a Lien created by the Collateral Documents and any and all other property of the Company or any Guarantor, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Collateral Trustee and for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) to secure the Securities Obligations; *provided* that Collateral shall exclude Excluded Property.

"Collateral Documents" means, ~~[~~collectively, the Security Agreement, each Lien Sharing and Priority Confirmation, the ~~Security and Collateral Agency Agreement, the~~ Mortgages, the Junior Lien Intercreditor ~~Agreements]~~Agreement, the Collateral Trust Agreement and all other agreements, instruments and documents executed in connection with this Indenture that are intended to create, perfect or evidence Liens to secure the Securities Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, collateral trust agreements, intercreditor agreements or collateral sharing agreements, ~~loan~~account control agreements~~, notes~~, guarantees, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, leases, financing statements and all other written matter whether heretofore, now, or hereafter executed by the Company or any Guarantor and delivered to the Collateral Trustee, in each case that is intended to create, perfect or evidence Liens to secure the Securities Obligations, as the same may be amended, amended and restated, restated, supplemented, renewed, extended, replaced or otherwise modified from time to time.

"Collateral Trust Agreement" means the Collateral Trust Agreement among the Company, the Subsidiaries of the Company from time to time party thereto, the Trustee and the Collateral Trustee, dated as of the Issue Date, as it may be amended, restated, supplemented, modified, extended, renewed or replaced from time to time in accordance with its terms.

"Collateral Trustee" means U.S. Bank National Association, together with its successors and permitted assigns, in its capacity as collateral trustee under the Collateral Trust Agreement, the Security Agreement and any other Collateral Document (and to the extent applicable any co-trustee or separate trustee appointed by the Collateral Trustee pursuant to the Collateral Trust Agreement).

"Company" means the party named as the "Company" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture

and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

"Company Order" means a written request or order signed in the name of the Company by any two Officers and delivered to the Trustee.

"consolidated" with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

"Consolidated EBITDA" means, for any Person for any period, Consolidated Net Income for such Person for such period:

(1) *plus*, without duplication, the following for such Person and its Subsidiaries (Restricted Subsidiaries, in the case of the Company) for such period to the extent deducted in calculating Consolidated Net Income:

(A) federal state, local and foreign income tax expense for such period,

(B) non-cash compensation expense,

(C) losses on discontinued operations,

(D) extraordinary or non-recurring gains and losses in accordance with GAAP,

(E) Fixed Charges,

(F) depreciation, depletion and amortization of property, plant, equipment and intangibles,

(G) debt extinguishment costs,

(H) other non-cash charges (including, without limitation, FASB ASC 360-10 writedowns, but excluding any non-cash charge which requires an accrual of, or a cash reserve for, anticipated cash charges for any future period),

(I) reclamation and remediation obligation expenses determined in accordance with GAAP , including such expenses relating to selenium (it being understood that reclamation and remediation obligation expenses may not be added back under any other clause in this definition),

(J) cash proceeds of asset sales or principal repayments in cash of notes receivables related to asset sales, so long as such cash proceeds and cash repayments in the aggregate do not exceed 20% of Consolidated EBITDA in any reporting period,

(K) cash received from any non-wholly owned subsidiary or joint venture,

(L) transaction costs, fees and expenses incurred during such period in connection with any acquisition not prohibited hereunder or any issuance of debt or equity securities not prohibited hereunder (or repayment or refinancing of Indebtedness not prohibited hereunder) by the Company or any of its Restricted Subsidiaries, in each case for such period and any costs and expenses (including legal, financial and other advisors) incurred in connection with the Bankruptcy Proceedings and the Plan of Reorganization or any other transaction related thereto for such period,

(M) negative sales or purchase contract accretion, and

(N) past mining obligation expenses less past mining obligation cash payments;

provided that, with respect to any Subsidiary of such Person (Restricted Subsidiary, in the case of the Company), the foregoing such items shall be added only to the extent and in the same proportion that such Subsidiary's net income was included in calculating Consolidated Net Income.

(2) *minus*, without duplication, the following for such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period to the extent added in calculating Consolidated Net Income:

(A) federal state, local and foreign income tax benefit for such period,

(B) gains on discontinued operations,

(C) Consolidated EBITDA of any non-wholly owned subsidiary, and equity earnings and losses from joint ventures,

(D) cash dividends made to any minority interest holder, and

(E) positive sales or purchase contract accretion.

"Consolidated Funded Indebtedness" means, as of any date of determination, for the Company and its Restricted Subsidiaries on a consolidated basis, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments as of such date, (b) all direct obligations arising under standby letters of credit and similar instruments solely to the extent amounts have been drawn and remain unpaid thereunder (other than any letter of credit borrowings to the extent cash collateralized), (c) Attributable Indebtedness in respect of Capital Lease Obligations, (d) without duplication, all guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (c) above of Persons other than the Company or any Restricted Subsidiary, and (e) the Swap Termination Value that is due and payable by the Company and its Restricted Subsidiaries under any Swap Contract that has been closed out; *provided*, however, that Consolidated Funded Indebtedness shall exclude (x) any amount that would otherwise be included therein to the extent such amount represents capitalized interest that accrued on or after the date hereof on any Securities or any other Parity Lien Debt or

unsecured Indebtedness (whether or not such capitalized interest has subsequently been refinanced or replaced) and (y) any unsecured debt to the extent such debt provides for interest solely paid-in-kind until after the date that is 91 days after the then Latest Maturity Date (as defined in the ~~Term/~~LC/Term Credit Agreement).

"Consolidated Net Income" means, for any Person for any period, the aggregate net income (or loss) of such Person and its Subsidiaries for such period determined on a consolidated basis in conformity with GAAP (after reduction for minority interests in Subsidiaries of such Person), provided that the following (without duplication) shall be excluded in computing Consolidated Net Income:

(1) the net income (or loss) of any Person other than a Subsidiary of such Person (Restricted Subsidiary, in the case of the Company), except to the extent of dividends or other distributions actually paid in cash to the Company or any of its Restricted Subsidiaries by such Person during such period;

(2) the net income (or loss) of any Subsidiary of such Person (Restricted Subsidiary, in the case of the Company) to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or in similar distributions has been legally waived;

(3) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to asset sales, other dispositions or the extinguishment of debt, in each case other than in the ordinary course of business;

(4) any net after-tax extraordinary gains or losses;

(5) the cumulative effect of a change in accounting principles; and

(6) in calculating Consolidated Net Income for purposes of clause (a)(iii) of Section 4.11 only, the net income (or loss) of a successor entity prior to assuming the Company's obligations hereunder and under the Securities pursuant to Section 5.01.

"Consolidated Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness *less* Unrestricted Cash as of such date, to (b) Consolidated EBITDA for the period of the four consecutive fiscal quarters ending as of the date of such financial statements.

"Consolidated Tangible Assets" means, as of any date of determination, (a) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the Company and its Restricted Subsidiaries minus (b) the sum of all amounts that would, in accordance with GAAP, be set forth opposite the captions "goodwill" or other intangible categories (or any like caption) on a

consolidated balance sheet of the Company and its Restricted Subsidiaries ~~[minus (c) assets of a Securitization Subsidiary]~~.

~~"Continuing Directors" means, as of any date of determination, any member of the Board of Directors (i) who was a member of that Board of Directors on the Issue Date, (ii) whose election or nomination to that Board of Directors was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that Board of Directors was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that Board of Directors (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that Board of Directors occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the Board of Directors).~~

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound, including, without limitation, any of the foregoing with respect to Real Property Leases.

"Corporate Trust Office" means the office of the Trustee at which at any time this Indenture shall be administered, which office at the date of execution of this instrument is located at the address of the Trustee in Nashville, Tennessee specified in Section 12.02 hereof, except that with respect to the surrender of Securities for registration of transfer, exchange, purchase or redemption or the office where Global Securities shall be deposited as custodian for the Depositary, such term means the address of the Trustee in St. Paul, Minnesota specified in Section 12.02 hereof and with respect to presentation or surrender of Securities for payment such term means the office or agency of the Trustee at which at any particular time its corporate agency business shall be conducted in the Borough of Manhattan, The City of New York, which office or agency on the Issue Date is located at 100 Wall Street, New York, New York 10005, Attention: Global Corporate Trust Services or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"Credit Agreement" means either of the ABL Credit Agreement or the ~~Term/~~LC/Term Credit Agreement.

"Credit Agreement Documents" means the collective reference to any Credit Agreement~~, any notes issued pursuant thereto and the guarantees thereof, any fee letters related thereto, and the collateral documents relating thereto~~ and any other Senior Lender Documents (as defined in the Junior Lien Intercreditor Agreement), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified, in whole or in part, from time to time.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"Definitive Security" means a certificated Security registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Security shall not bear the Global Securities Legend and shall not have the "Schedule of Increases or Decreases in the Global Security" attached thereto.

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

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or any of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officers' Certificate, less the amount of Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

"Disqualified Equity Interests" means Equity Interests that by their terms (or by the terms of any security into which such Equity Interests are convertible, or for which such Equity Interests are exchangeable, in each case at the option of the holder thereof) or upon the happening of any event:

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or are required to be redeemed or redeemable at the option of the holder prior to the Stated Maturity of the Securities for consideration other than Qualified Equity Interests, or

(2) are convertible at the option of the holder into Disqualified Equity Interests or exchangeable for Indebtedness, in each case prior to the date that is 91 days after the date on which the Securities mature; provided that Equity Interests shall not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to require the repurchase or redemption upon an "asset sale" or "change of control" occurring prior to the Stated Maturity of the Securities if those provisions:

(A) are no more favorable to the holders of such Equity Interests than those set forth under Section 4.13 and Section 4.15 hereof, respectively, and

(B) specifically state that repurchase or redemption pursuant thereto shall not be required prior to the Company's repurchase of the Securities as required under the terms hereof.

"Disqualified Stock" means Capital Stock constituting Disqualified Equity Interests.

"Domestic Subsidiary" means a Subsidiary incorporated or otherwise organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory or possession of the United States.

"DTC" means The Depository Trust Company, its nominees and successors.

"Environment" means ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata or sediment, natural resources such as flora or fauna or as otherwise defined in any Environmental Law.

"Environmental Laws" means any and all applicable current and future federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, concessions, grants, franchises, agreements or other governmental restrictions or common law causes of action relating to (a) protection of the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous materials, substances or wastes into the environment including ambient air, surface water, ground water, the land surface or subsurface strata or sediment, (b) the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201 et seq., as amended, (c) the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801 et seq., as amended, (d) human health as affected by hazardous or toxic substances, (e) acid mine drainage and (f) mining operations and activities to the extent relating to environmental protection or reclamation; *provided*, that "Environmental Laws" do not include any laws relating to worker or retiree benefits, including benefits arising out of occupational diseases.

"Environmental Permits" means any and all permits, licenses, registrations, certifications, notifications, exemptions and any other authorization required under any applicable Environmental Law (including, without limitation, those necessary under any applicable Environmental Laws for the construction, maintenance and operation of any coal mine or related processing facilities or the reclamation and restoration of land, water and any future, current, abandoned or former mines, and of any other Environment affected by such mines, as required pursuant to the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201 et seq., as amended, any other Environmental Law or any Environmental Permit).

"Equity Interests" means all Capital Stock and all warrants or options with respect to, or other rights to purchase, Capital Stock, but excluding Indebtedness convertible into, or exchangeable for, Capital Stock.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Company within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

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

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Excluded Property" has the meaning assigned to such term in the Security Agreement.

"Existing Indebtedness" means all Indebtedness of the Company or its Subsidiaries (other than Indebtedness under the Securities and the Guarantees issued on the date of this Indenture or under the ABL Credit Agreement or the ~~Term/~~LC/Term Credit Agreement) in existence on the date of this Indenture, until such amounts are repaid.

"Fair Market Value" means, with respect to any property, the price that could be negotiated in an arm's-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, ~~(a)~~ if such property has a Fair Market Value ~~equal to or less than $[25,000,000], by any Officer; or (b) if such property has a Fair Market Value~~ in excess of $~~[~~25,000,000~~]~~, by at least a majority of the disinterested members of the Board of Directors and evidenced by a Board Resolution delivered to the Trustee.

"Fixed Charge Coverage Ratio" means, on any date (the "transaction date") for any Person, the ratio of:

(x) the aggregate amount of Consolidated EBITDA minus Capital Expenditures (excluding the portion thereof financed with the net proceeds of the sale or issuance of Equity Interests or financed under Capital Leases or other Indebtedness (excluding the proceeds of revolving loans advanced under the ABL Credit Agreement) for such Person for the four fiscal quarters immediately prior to the transaction date for which internal financial statements are available (the "reference period") to

(y) the aggregate Fixed Charges for such Person during such reference period, in all cases calculated on a consolidated basis for such Person.

In making the foregoing calculation,

(1) pro forma effect shall be given to any Indebtedness or Preferred Stock Incurred during or after the reference period to the extent the Indebtedness is outstanding or is to be Incurred on the transaction date as if the Indebtedness, Disqualified Stock or Preferred Stock had been Incurred on the first day of the reference period;

(2) pro forma calculations of interest on Indebtedness bearing a floating interest rate shall be made as if the rate in effect on the transaction date (taking into account any Hedging Agreement applicable to the Indebtedness if the Hedging Agreement has a remaining term of at least 12 months) had been the applicable rate for the entire reference period;

(3) Fixed Charges related to any Indebtedness or Preferred Stock no longer outstanding or to be repaid or redeemed on the transaction date, except for Interest Expense accrued during the reference period under a revolving credit to the extent of the commitment thereunder (or under any successor revolving credit) in effect on the transaction date, shall be excluded;

(4) pro forma effect shall be given to:

(A) the creation, designation or redesignation of Restricted and Unrestricted Subsidiaries,

(B) the acquisition or disposition of companies, divisions or lines of businesses by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company), including any acquisition or disposition of a company, division or line of business since the beginning of the reference period by a Person that became a Subsidiary of such Person (Restricted Subsidiary, in the case of the Company) after the beginning of the reference period, and

(C) the discontinuation of any discontinued operations but, in the case of Fixed Charges, only to the extent that the obligations giving rise to the Fixed Charges shall not be obligations of such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) following the transaction date

that have occurred since the beginning of the reference period as if such events had occurred, and, in the case of any disposition, the proceeds thereof applied, on the first day of the reference period. To the extent that pro forma effect is to be given to an acquisition or disposition of a company, division or line of business, the pro forma calculation shall be based upon the most recent four full fiscal quarters for which the relevant financial information is available.

"Fixed Charges" means, for any Person for any period, the sum of:

(1) Interest Expense for such Person for such period; and

(2) the product of

(x) cash and non-cash dividends paid, declared, accrued or accumulated on any Disqualified Stock or Preferred Stock of such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company), except for dividends payable in Capital Stock of the Company other than Disqualified Stock or paid to such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company), and

(y) a fraction, the numerator of which is one and the denominator of which is one minus the sum of the currently effective combined Federal, state, local and foreign tax rate

applicable to such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company).

"Foreign Subsidiary" means a Subsidiary not organized or existing under the laws of the United States of America or any state, territory or possession thereof or the District of Columbia.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, in each case, as in effect in the United States of America on the Issue Date, except with respect to any reports or financial information required to be delivered pursuant to Section 4.02 hereof, which shall be prepared in accordance with GAAP as in effect on the date thereof.

"Global Securities" means, individually and collectively, each of the Global Securities deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Securities Legend and that has the "Schedule of Increases or Decreases in the Global Security" attached thereto, issued in accordance with Section 2.01, Section 2.06(b)(iv) or Section 2.06(d) hereof.

"Global Security Legend" means the legend set forth in Section 2.06(f)(ii), which is required to be placed on all Global Securities issued under this Indenture.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"guarantee" by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor"), whether directly or indirectly, and including any written obligation of the guarantor, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or advance or supply funds for the purchase of) any security for the payment thereof, (b) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (c) as an account party in respect of any letter of credit or letter of guarantee issued to support such Indebtedness or other obligation; provided that the term "guarantee" shall not include endorsements for collection or deposit in the ordinary course of business.

"Guarantee" means an unconditional guaranty of the Securities Obligations given by any Subsidiary pursuant to the provisions of Article X of this Indenture.

"Guarantor" means (i) each Restricted Subsidiary of the Company in existence on the Issue Date that guarantees any of the ABL Credit Agreement or the ~~Term/~~LC/Term Credit Agreement and (ii) each Subsidiary that executes and delivers a Guarantee pursuant to Section 10.08 hereof and (iii) each Subsidiary that otherwise executes and delivers a Guarantee, in each case, until such time as such Subsidiary is released from its Guarantee in accordance with the provisions of this Indenture. References to Guarantor or Guarantors, where appropriate, shall include such Guarantor, or Guarantors, in its or their capacity as a grantor or mortgagor under the applicable Collateral Documents.

"Hedging Agreement" means any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement.

"Holder" or "Securityholder" means a Person in whose name a Security is registered on the Registrar's books.

"Incur" means, with respect to any Indebtedness or Capital Stock, to incur, create, issue, assume or guarantee such Indebtedness or Capital Stock. If any Person becomes a Restricted Subsidiary on any date after the date hereof (including by redesignation of an Unrestricted Subsidiary or failure of an Unrestricted Subsidiary to meet the qualifications necessary to remain an Unrestricted Subsidiary), the Indebtedness and Capital Stock of such Person outstanding on such date shall be deemed to have been Incurred by such Person on such date for purposes of Section 4.10 hereof, but shall not be considered the sale or issuance of Equity Interests for purposes of Section 4.13 hereof. Neither the accrual of interest nor the accretion of original issue discount nor the payment of interest in the form of additional Indebtedness (to the extent provided for when the Indebtedness on which such interest is paid was originally issued) shall be considered an Incurrence of Indebtedness.

"Indebtedness" means, with respect to any Person, without duplication,

(1) all indebtedness of such Person for borrowed money;

(2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments;

(4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services provided by third-party service providers which are recorded as liabilities under GAAP, excluding (i) trade payables arising in the

ordinary course of business and payable in accordance with customary practice, and (ii) accrued expenses, salary and other employee compensation obligations incurred in the ordinary course;

(5) the Attributable Indebtedness of such Person in respect of Capital Leases;

~~(6) [the amount of all Receivables Financings of such Person;]~~

(~~7~~6) Disqualified Equity Interests of such Person;

(~~8~~7) all Indebtedness of other Persons guaranteed by such Person to the extent so guaranteed;

(~~9~~8) all Indebtedness (excluding prepaid interest thereon) of other Persons secured by a Lien on any property owned or being purchased by (including indebtedness owing under conditional sales or other title retention agreements) such Person, whether or not such Indebtedness is assumed by such Person or is limited in recourse; and

(~~10~~9) all obligations of such Person under Hedging Agreements.

The amount of Indebtedness of any Person shall be deemed to be:

(A) with respect to Indebtedness secured by a Lien on an asset of such Person but not otherwise the obligation, contingent or otherwise, of such Person, the lesser of (x) the fair market value of such asset on the date the Lien attached and (y) the amount of such Indebtedness;

(B) with respect to any Indebtedness issued with original issue discount, the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness;

(C) with respect to any Hedging Agreement, the amount payable (determined after giving effect to all contractually permitted netting) if such Hedging Agreement terminated at that time; and

(D) otherwise, the outstanding principal amount thereof.

"Indenture" means this instrument, as amended or supplemented from time to time in accordance with the terms hereof, including the provisions of the TIA that are deemed to be a part hereof in the event this instrument is qualified under the TIA.

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

"Initial Public Offering" means the initial offering by the Company or any direct or indirect parent of the Company of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8)

pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act (whether alone or in connection with or solely pursuant to a secondary public offering).

"Initial Securities" means the first $262,500,000 aggregate principal amount of Securities issued under this Indenture on the date hereof, which amount includes the issuance of Securities to certain Affiliates of the Backstop Parties in respect of backstop fees.

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

~~"Intercreditor Agreements" means the Senior Priority Lien Intercreditor Agreement[, the Collateral Trust Agreement, the Security and Collateral Agency Agreement] and such other intercreditor agreements as may be entered into from time to time by the Company with respect to the Collateral.~~

"Interest Expense" means, for any Person for any period, the consolidated interest expense of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company), *plus*, to the extent not included in such consolidated interest expense, and to the extent incurred, accrued or payable by such Person or its Subsidiaries (Restricted Subsidiaries in the case of the Company), without duplication: (i) interest expense attributable to Capital Leases, (ii) amortization of debt discount and debt issuance costs, (iii) capitalized interest, (iv) non-cash interest expense~~[,]/[~~ and~~]~~ (v) any of the above expenses with respect to Indebtedness of another Person guaranteed by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) or secured by a Lien on the assets of such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company)~~ [and (vi) any interest, premiums, fees, discounts, expenses and losses on the sale of accounts receivable (and any amortization thereof) payable by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) in connection with a Receivables Financing, and any yields or other charges or other amounts comparable to, or in the nature of, interest payable by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) under any Receivables Financing]~~. Interest Expense shall be determined for any period after giving effect to any net payments made or received and costs incurred by such Person or any of its Subsidiaries (Restricted Subsidiaries in the case of the Company) with respect to any related interest rate Hedging Agreements.

"Investment" means:

(1) any advance (excluding intercompany liabilities incurred in the ordinary course of business in connection with the cash management operations of the Company or its Restricted Subsidiaries), loan or other extension of credit to another Person (but excluding (i) advances to customers, suppliers or the like in the ordinary course of business that are, in conformity with GAAP, recorded as accounts receivables, prepaid expenses or deposits on the balance sheet of the Company or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business, (ii) commission, travel and similar advances to officers and employees made in the ordinary course of business and (iii) advances, loans or

extensions of trade credit in the ordinary course of business by the Company or any of its Restricted Subsidiaries),

(2) any capital contribution to another Person, by means of any transfer of cash or other property or in any other form,

(3) any purchase or acquisition of Equity Interests, bonds, notes or other Indebtedness, or other instruments or securities issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services, or

(4) any guarantee of any obligation of another Person.

If the Company or any Restricted Subsidiary (x) issues, sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary so that, after giving effect to that sale or disposition, such Person is no longer a Subsidiary of the Company, or (y) designates any Restricted Subsidiary as an Unrestricted Subsidiary in accordance with the terms hereof, all remaining Investments of the Company and the Restricted Subsidiaries in such Person shall be deemed to have been made at such time. The acquisition by the Company or any Restricted Subsidiary of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Person or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person on the date of such acquisition.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

"Investment Grade Securities" means:

(1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody's and BBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among the Company and its Subsidiaries,

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment and/or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

"Issue Date" means the date on which the Securities (other than Additional Securities) are originally issued hereunder.

"Junior Lien Debt" means any Indebtedness of the Company that is secured by a Lien junior to the Liens securing the Securities and that was permitted to be incurred and so secured under each applicable Secured Debt Document; provided that the trustee, agent or representative of the holders of such Junior Lien Debt who maintains the transfer register for such Junior Lien Debt shall have become a party to the Collateral Trust Agreement by executing a joinder in the form required therefor under the Collateral Trust Agreement and all other requirements set forth in the Collateral Trust Agreement for such Indebtedness to constitute "Junior Lien Debt" shall have been met.

"Junior Lien Intercreditor Agreement" means the junior-lien intercreditor agreement, dated as of the Issue Date, among the Company, certain Subsidiaries as guarantors, Deutsche Bank AG New York Branch, as the ABL Agent, Barclays Bank PLC, as the LC Agent and the "Term Agent," Wilmington Trust, National Association, as the "LC/Term Collateral Agent," and the Collateral Trustee, as a "Junior-Priority Agent," and the other parties from time to time party thereto, as it may be amended, amended and restated, supplemented, modified replaced, extended, restructured or renewed from time to time in accordance with this Indenture.

"LC Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"LC/Term Cash Management Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"LC/Term Credit Agreement" shall mean (i) the Credit Agreement (L/C Facility and Term Facility), dated as of the date hereof, by and among the Company, as borrower, certain of its Subsidiaries as guarantors, the lenders party thereto from time and time, Barclays Bank PLC, as administrative agent for the L/C lenders and L/C issuers, Barclays Bank PLC, as administrative agent for the term lenders, and Wilmington Trust, National Association, as collateral agent for the lenders, the L/C issuers and the other secured parties, as in effect on the Issue Date and as the same may be amended, modified, supplemented, extended, renewed, restated, replaced or refinanced from time to time, (ii) any other LC/Term Credit Agreement (as defined in the Junior Lien Intercreditor Agreement) and (iii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time.

"LC/Term Hedging Obligations" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Letter of Credit Facility" means (i) ~~[~~the "L/C Facility" as such term is defined in the ~~Senior Priority Lien Intercreditor~~LC/Term Credit Agreement~~]~~, and (ii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and ~~as otherwise permitted under the Senior Priority Lien Intercreditor Agreement and~~ so long as such Indebtedness is otherwise permitted under Section 4.10(b)(iii) hereof.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or Capital Lease).

"Lien Sharing and Priority Confirmation" ~~means:~~has the meaning set forth in the Collateral Trust Agreement.

~~as to any future Series of Parity Lien Debt, the written agreement of the holders of such Series of Parity Lien Debt, as set forth in this Indenture, credit agreement or other agreement governing such Series of Parity Lien Debt, for the enforceable benefit of all holders of each existing and future Series of Secured Debt and each existing and future Secured Debt Representative:~~

~~(a) that all Parity Lien Obligations will be and are secured equally and ratably by all Parity Liens at any time granted by the Company or any Guarantor to secure any Obligations in respect of such Series of Parity Lien Debt and that all such Parity Liens will be enforceable by the Collateral Trustee for the benefit of all Parity Lien Secured Parties equally and ratably; *provided*, *however*, that notwithstanding the foregoing, this provision will not be violated with respect to any particular Collateral and any particular Series of Parity Lien Debt if the Secured Debt Documents in respect thereof prohibit the applicable Parity Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Parity Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property;~~

~~(b) that the holders of Obligations in respect of such Series of Parity Lien Debt are bound by the provisions of the Collateral Trust Agreement, including the provisions relating to the ranking of Parity Liens and the order of application of proceeds from the enforcement of Parity Liens; and~~

~~(c) consenting to and directing the Collateral Trustee to perform its obligations under the Collateral Trust Agreement and the other Collateral Documents.~~

"Management Rights Offering Warrants" means the warrants to acquire up to 1,000,000 shares of Class A Common Stock issued from time to time in accordance with a management compensation plan or program.

"Material Adverse Effect" means (a) a material adverse effect on (i) the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries taken as a whole, ~~(ii~~other than as a result of (i) events leading up to, resulting from and following the commencement of the bankruptcy proceedings of the Company prior to the Issue Date or the continuation and prosecution thereof, (ii) any circumstances disclosed in the Debtors' Disclosure Statement filed with the Bankruptcy Court on November 4, 2013, (iii) any item disclosed in the reports and other documents furnished to or filed with the SEC or the Bankruptcy Court (including, for this purpose, the Debtors' case information website) by the Company and that are publicly available on or prior to November 8, 2013 (but in the case of

each of clauses (ii) and (iii), without regard to "risk factor" or other forward looking disclosure and based solely on facts as disclosed therein (without giving effect to any developments not disclosed therein)) or (iv) any liability to Company and the ERISA Affiliates arising from any withdrawal from, or termination of, the United Mine Workers of America 1974 Pension Plan (unless the amount by which the aggregate annual amount of such liability exceeds the aggregate annual amount that the Company and the ERISA Affiliates are required to contribute to such plan as of immediately prior to such withdrawal or termination by itself has a material adverse effect upon the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole, (b) the ability of the Company and the Guarantors, taken as a whole, to perform any of its obligations under this Indenture, the Securities or the Collateral Documents or (~~iii~~c) the rights of or benefits available to the Secured Parties (as defined in the Collateral Trust Agreement) under this Indenture and the Collateral Documents ~~or (b) a material impairment of a material portion of the Collateral or of any Lien on any material portion of the Collateral in favor of or for the benefit of the Collateral Trustee or the priority of such Liens~~.

"Material Leased Real Property" means (a) all Real Property subject to a Real Property Lease as of the Issue Date and for which the Company is required to deliver (or, if the terms of the lease of such Real Property (or applicable state law, if such lease is silent on the issue) prohibit a mortgage thereof, to use commercially reasonable efforts to deliver) leasehold mortgages or leasehold deeds of trust pursuant to the LC/Term Credit Agreement or the ABL Credit Agreement, as in effect on the Issue Date, and (b) any other Real Property subject to a Real Property Lease entered into after the Issue Date with respect to which the Company or any Guarantor acquires an interest having a Fair Market Value reasonably estimated by the Company to be in excess of $2,500,000; provided, that in no event shall "Material Leased Real Property" include any Excluded Property.

"Material Owned Real Property" means (a) all Real Property owned as of the Issue Date and which is required to be subject to a deed of trust, trust deed, deed to secure debt, mortgage, or other similar agreement pursuant to the LC/Term Credit Agreement or the ABL Credit Agreement, as in effect on the Issue Date, and (b) any other Real Property acquired after the Issue Date and owned in fee by the Company or any Guarantor having a Fair Market Value reasonably estimated by the Company to be in excess of $1,000,000; provided, that in no event shall "Material Owned Real Property" include any Excluded Property.

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

"Mortgage" means each mortgage, deed of trust, leasehold mortgage, leasehold deed of trust or other agreement which conveys or evidences a Lien in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement), on owned or leased real property of the Company or any Guarantor, including any amendment, amendment and restatement, restatement, modification, supplement, extension, renewal or replacement thereto.

"Net Cash Proceeds" means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash (including (i) payments in respect of deferred payment obligations to

the extent corresponding to principal, but not interest, when received in the form of cash, and (ii) proceeds from the conversion of other consideration received when converted to cash but only when received), net of:

(1) brokerage commissions and other fees and expenses related to such Asset Sale, including fees and expenses of counsel, accountants and investment bankers and any relocation expenses incurred as a result thereof;

(2) provisions for income Taxes as a result of such Asset Sale taking into account the consolidated results of operations of the Company and its Restricted Subsidiaries reasonably estimated to actually be payable within two years of the date of the relevant transaction as a result of any gain recognized in connection therewith, provided that if the amount of any estimated Taxes hereunder exceeds the amount of Taxes actually required to be paid in cash in respect of such Asset Sale, the aggregate amount of such excess shall constitute Net Cash Proceeds;

(3) payments required to be made to holders of minority interests in Restricted Subsidiaries as a result of such Asset Sale or to repay Indebtedness outstanding at the time of such Asset Sale that is secured by a Lien on the property or assets sold; and

(4) appropriate amounts to be provided as a reserve against liabilities associated with such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and indemnification obligations associated with such Asset Sale, with any subsequent reduction of the reserve other than by payments made and charged against the reserved amount to be deemed a receipt of cash.

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

"Obligations" means, with respect to any Indebtedness, all obligations (whether in existence on the Issue Date or arising afterwards, absolute or contingent, direct or indirect) for or in respect of principal (when due, upon acceleration, upon redemption, upon mandatory repayment or repurchase pursuant to a mandatory offer to purchase, or otherwise), premium, interest, penalties, fees, indemnification, reimbursement, expenses, damages and other amounts payable and liabilities with respect to such Indebtedness, including all interest accrued or accruing after the commencement of any bankruptcy, insolvency or reorganization or similar case or proceeding at the contract rate (including, without limitation, any contract rate applicable upon default) specified in the relevant documentation, whether or not the claim for such interest is allowed as a claim in such case or proceeding, whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured[,] (with respect to the Securities) the Acceleration Premium[].

"Officer" means the Chairman, Vice Chairman, Chief Executive Officer, the President, any Executive Vice President, any Senior Vice President, any Vice President, the Chief Financial Officer, the Treasurer, the Secretary or any Assistant Secretary of the Company.

"OID Legend" means the legend set forth in Section 2.06(f)(iv) to be placed on all Securities issued under this Indenture.

"Officers' Certificate" means a written certificate containing the statements specified in Section 12.05, signed by any two Officers and delivered to the Trustee.

"Opinion of Counsel" means a written opinion containing the statements specified in Section 12.05, from legal counsel who is acceptable to the Trustee and delivered to the Trustee.

"Parity Lien" means a Lien granted, or purported to be granted, by a security document to the Collateral Trustee for the benefit of the Parity Lien Secured Parties, at any time, upon any property of the Company or any Guarantor to secure Parity Lien Obligations.

"Parity Lien Debt" means:

(1) the Securities issued on the date of this Indenture;

(2) any other Indebtedness of the Company (including Additional Securities issued under this Indenture) that is secured by a Parity Lien and that was permitted to be incurred and so secured under each applicable Secured Debt Document; *provided* that:

(a) the net proceeds of such Indebtedness are used to refund, refinance, replace, defease, discharge or otherwise acquire or retire Priority Lien Debt or other Parity Lien Debt;

(b) such Indebtedness was incurred in respect of Management Incentive Securities; or

(c) on the date of incurrence of such Indebtedness, after giving pro forma effect to the incurrence thereof and the application of the proceeds therefrom, the Consolidated Net Leverage Ratio shall be less than 3.5 to 1.0;

provided, in the case of any Indebtedness referred to in this clause (2):

(a) on or before the date on which such Indebtedness is incurred by the Company, such Indebtedness is designated by the Company in an Officers' Certificate delivered to each Parity Lien Representative and the Collateral Trustee, as "Parity Lien Debt" for the purposes of this Indenture and each applicable Secured Debt Document; *provided* that no Series of Secured Debt may be designated as both Parity Lien Debt and Priority Lien Debt;

(b) such Indebtedness is governed by an indenture, credit agreement or other agreement that includes a Lien Sharing and Priority Confirmation; and

(c) all requirements set forth in the Collateral Trust Agreement as to the confirmation, grant or perfection of the Collateral Trustee's Liens to secure such Indebtedness or Obligations in respect thereof are satisfied (and the satisfaction

of such requirements and the other provisions of this clause (c) will be conclusively established if the Company delivers to the Collateral Trustee an Officers' Certificate stating that such requirements and other provisions have been satisfied and that such Indebtedness is "Parity Lien Debt").

"Parity Lien Documents" means this Indenture and any other indenture or credit agreement pursuant to which any Parity Lien Debt is incurred and any related documents or agreements evidencing, governing or implementing such Parity Lien Debt, including any Collateral Documents or other collateral documents (other than any Collateral Documents or other collateral documents that do not secure Parity Lien Obligations).

"Parity Lien Obligations" means Parity Lien Debt and all other Obligations in respect thereof, including, without limitation, interest and premium (if any) (including post-petition interest whether or not allowable) and all guarantees of any of the foregoing.

"Parity Lien Representative" means:

(1) in the case of the Securities, the Trustee; and

(2) in the case of any other Series of Parity Lien Debt, the trustee, agent or representative of the holders of such Series of Parity Lien Debt who maintains the transfer register for such Series of Parity Lien Debt and (a) is appointed as a Parity Lien Representative (for purposes related to the administration of the Security Documents) pursuant to ~~this Indenture~~an indenture, a credit agreement or other agreement governing such Series of Parity Lien Debt, together with its successors in such capacity, and (b) has become a party to the Collateral Trust Agreement by executing a joinder in the form required under the Collateral Trust Agreement.

"Parity Lien Secured Parties" means the holders of Party Lien Obligations, each Parity Lien Representative and the Collateral Trustee.

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

"Permitted Business" means any of the businesses in which the Company and its Restricted Subsidiaries are engaged on the Issue Date, and any other businesses reasonably related, incidental, complementary or ancillary thereto.

"Permitted Holder" means ~~[~~(1) the Voting Trust, (2) the United Mine Workers of America, (3) the Backstop Parties and their respective Affiliates and ~~(2~~4) a group of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that include one or more of the entities set forth in ~~clause~~clauses (1) though (3) of this definition.~~]~~

"Permitted Investments" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company that is a Guarantor;

(2) any Investment in cash or Cash Equivalents;

(3) any Investment by the Company or any Subsidiary of the Company in a Person, if, as a result of such Investment

(A) such Person becomes a Restricted Subsidiary of the Company and a Guarantor, or

(B) such Person is merged or consolidated with or into, or transfers or conveys substantially all its assets to, or is liquidated into, the Company or a Restricted Subsidiary that is a Guarantor;

(4) Investments received as non-cash consideration in an asset sale made pursuant to and in compliance with Section 4.13 hereof;

(5) any Investment acquired solely in exchange for Qualified Stock of the Company;

(6) Hedging Agreements otherwise permitted under the terms hereof;

(7) (i) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business, (ii) endorsements for collection or deposit in the ordinary course of business, and (iii) securities, instruments or other obligations received in compromise or settlement of debts created in the ordinary course of business, or by reason of a composition or readjustment of debts or reorganization of another Person, or in satisfaction of claims or judgments;

(8) payroll, travel and other loans or advances to, or guarantees issued to support the obligations of, current or former officers, managers, directors, consultants and employees, in each case in the ordinary course of business, not in excess of $~~[~~2,000,000~~]~~ outstanding at any time;

~~(9) [Investments arising as a result of any Permitted Receivables Financing;]~~

(~~10~~9) Investments in the nature of any Production Payments, royalties, dedication of reserves under supply agreements or similar rights or interests granted, taken subject to, or otherwise imposed on properties with normal practices in the mining industry;

(~~11~~10) Investments consisting of obligations specified in Section 4.10(b)(~~ix)~~viii) and Investments consisting of guarantees of Indebtedness permitted by Section 4.10;

(~~12~~11) Investments resulting from pledges and deposits permitted under the definition of "Permitted Liens";

(~~13~~12) Investments consisting of purchases and acquisitions, in the ordinary course of business, of inventory, supplies, material or equipment or the licensing or contribution of intellectual property;

(~~14~~13) Investments consisting of indemnification obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, reclamation bonds and completion guarantees and similar obligations in respect of coal sales contracts (and extensions or renewals thereof on similar terms) or under applicable law or with respect to workers' compensation benefits, in each case entered into in the ordinary course of business, and pledges or deposits made in the ordinary course of business in support of obligations under coal sales contracts (and extensions or renewals thereof on similar terms);

~~(15) [customary Investments in a Securitization Subsidiary that are necessary or desirable to effect any Permitted Receivables Financing;]~~

(~~16~~14) Investments in Unrestricted Subsidiaries and joint ventures in an aggregate amount (without taking into account any changes in value after the making of any such Investment), taken together with all other Investments made in reliance on this clause, not to exceed the greater of (x) $~~[~~100,000,000~~]~~ and (y) ~~[~~3.0~~]~~% of Consolidated Tangible Assets (net of, with respect to the Investment in any particular Person, the cash return thereon received after the Issue Date as a result of any sale for cash, repayment, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income), not to exceed the amount of Investments in such Person made after the Issue Date in reliance on this clause); and

(~~17~~15) in addition to Investments listed above, Investments in Persons engaged in Permitted Businesses in an aggregate amount (without taking into account any changes in value after the making of any such Investment), taken together with all other Investments made in reliance on this clause, not to exceed the greater of (x) $~~[~~100,000,000~~]~~ and (y) ~~[~~3.5~~]~~% of Consolidated Tangible Assets (net of, with respect to the Investment in any particular Person made pursuant to this clause, the cash return thereon received after the Issue Date as a result of any sale for cash, repayment, return, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income) not to exceed the amount of such Investments in such Person made after the Issue Date in reliance on this clause).

"Permitted Land Swap" means any transfer conducted in the ordinary course of business, consistent with past practice, of Real Property by the Company or any Guarantor in which at least 75% of the consideration received by the transferor consists of Real Property; *provided*, that, unless otherwise permitted under the LC/Term Credit Agreement (i) the aggregate Fair Market Value of the Real Property being received by the Company or any Guarantor is approximately equal to or greater than the Fair Market Value of the Real Property being transferred by the Company or any Guarantor in such exchange, (ii) the Real Property received by the Company or any Guarantor will be used by the Company or any Guarantor in a line of business that the Company or any Guarantor engaged in on the Issue Date, (iii) the exchange of assets by the parties to the transaction is substantially simultaneous, (iv) in evaluating any such transfer, the Company or any Guarantor shall use sound mining and business practices, (v) the Real Property received by the Company or any Guarantor shall

not be subject to any Contractual Obligation that limits the ability of the Company or any Guarantor to create, incur, assume or suffer to exist any Lien on such Real Property, except (A) to the extent that the Real Property being transferred by the Company or any Guarantor is subject to such a Contractual Obligation or (B) for Real Properties being transferred having an aggregate Fair Market Value not exceeding $15,000,000 during any fiscal year or $50,000,000 in the aggregate and (vi) the aggregate Fair Market Value of all Real Property transferred by the Company or any Guarantor in any such transfer or transfers shall not exceed $50,000,000 during any fiscal year or $150,000,000 in the aggregate.

"Permitted Liens" means, with respect to any Person:

(1) Liens existing on the Issue Date;

(2) Liens securing Parity Lien Obligations;

(3) Liens securing Priority Lien Obligations (including extensions, renewals or replacements of any such Liens in connection with the Refinancing of any Priority Lien Obligations secured thereby);

(4) (i) pledges or deposits under worker's compensation laws, unemployment insurance and other social security laws or regulations or similar legislation, or to secure liabilities to insurance carriers under insurance arrangements in respect of such obligations, or good faith deposits, prepayments or cash payments in connection with bids, tenders, contracts or leases, or to secure public or statutory obligations, surety and appeal bonds, customs duties and the like, or for the payment of rent, in each case incurred in the ordinary course of business and (ii) Liens securing obligations specified in clause (b)(~~ix~~viii) of the definition of "Permitted Indebtedness," Incurred in the ordinary course of business to secure performance of obligations with respect to statutory or regulatory requirements, performance or return-of-money bonds, contractual arrangements with suppliers, reclamation bonds, surety bonds or other obligations of a like nature and Incurred in a manner consistent with industry practice, in each case which are not Incurred in connection with the borrowing of money or the obtaining of advances or credit;

(5) Liens imposed by law, such as carriers', vendors', warehousemen's and mechanics' liens, in each case for sums not ~~yet due~~overdue for a period of more than 60 days or being contested in good faith and by appropriate proceedings and in respect of Taxes and other governmental assessments and charges or claims which are not yet due or which are being contested in good faith and by appropriate proceedings;

(6) customary Liens in favor of trustees and escrow agents, and netting and setoff rights, banker's liens and the like in favor of financial institutions and counterparties to financial obligations and instruments, including Hedging Agreements;

(7) Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets;

(8) options, put and call arrangements, rights of first refusal and similar rights relating to Investments in joint ventures, partnerships and the like;

(9) judgment liens so long as no Event of Default then exists as a result thereof;

(10) Liens incurred in the ordinary course of business securing obligations other than Indebtedness for borrowed money and not in the aggregate materially detracting from the value of the properties or their use in the operation of the business of the Company and its Restricted Subsidiaries;

(11) Liens (including the interest of a lessor under a Capital Lease) on property that secure Indebtedness Incurred pursuant to clause (b)(~~xiv~~xiii) of the definition of "Permitted Indebtedness" for the purpose of financing all or any part of the purchase price or cost of construction or improvement of such property, provided that the Lien does not (x) extend to any additional property or (y) secure any additional obligations, in each case other than the initial property so subject to such Lien and the Indebtedness and other obligations originally so secured;

(12) Liens on property of a Person at the time such Person becomes a Restricted Subsidiary of the Company, provided such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any Restricted Subsidiary;

(13) Liens on property at the time the Company or any of the Restricted Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into the Company or a Restricted Subsidiary of such Person, provided such Liens were not created in contemplation thereof and do not extend to any other property of the Company or any Restricted Subsidiary;

(14) Liens securing Indebtedness or other obligations of the Company or a Restricted Subsidiary to the Company or a Guarantor;

(15) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is tax-exempt under the Internal Revenue Code;

(16) Liens on specific items of inventory, equipment or other goods and proceeds of any Person securing such Person's obligations in respect thereof or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(17) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Company or any Restricted Subsidiary on deposit with or in possession of such bank;

(18) Deposits made in the ordinary course of business to secure liability to insurance carriers;

(19) extensions, renewals or replacements of any Liens referred to in clauses (1), (2), (11), (12) or (13) in connection with the refinancing of the obligations secured thereby,

provided that such Lien does not extend to any other property and, except as contemplated by the definition of "Permitted Refinancing Indebtedness", the amount secured by such Lien is not increased;

~~(20) [Liens on assets of a Securitization Subsidiary and accounts receivable and related assets and proceeds thereof arising in connection with a Permitted Receivables Financing;]~~

(~~21~~20) surface use agreements, easements, zoning restrictions, rights of way, encroachments, pipelines, leases (other than Capital Leases), subleases, rights of use, licenses, special assessments, trackage rights, transmission and transportation lines related to mining leases or mineral right and/or other real property including any re-conveyance obligations to a surface owner following mining, royalty payments, and other obligations under surface owner purchase or leasehold arrangements necessary to obtain surface disturbance rights to access the subsurface coal deposits and similar encumbrances on real property imposed by law or arising in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Company or any Restricted Subsidiary;

(~~22~~21) pledges, deposits or non-exclusive licenses to use intellectual property rights of the Company or its Restricted Subsidiaries to secure the performance of bids, tenders, trade contracts, leases, public or statutory obligations, surety and appeal bonds, reclamation bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(~~23~~22) rights of owners of interests in overlying, underlying or intervening strata and/or mineral interests not owned by the Company or any of its Restricted Subsidiaries, with respect to tracts of real property where the Company's or the applicable Restricted Subsidiary's ownership is only surface or severed mineral or is otherwise subject to mineral severances in favor of one or more third parties;

(~~24~~23) other defects and exceptions to title of real property where such defects or exceptions~~, in the aggregate, are not substantial in amount and do not materially detract from the value of the affected property~~ could not reasonably be expected to have a Material Adverse Effect;

(~~25~~24) leases, licenses, subleases and sublicenses created in the ordinary course of business which do not interfere in any material respect with the business of the Company or any of the Restricted Subsidiaries;

(~~26~~25) Liens on shares of Capital Stock of any Unrestricted Subsidiary securing obligations of any Unrestricted Subsidiary;

(~~27~~26) Liens arising from precautionary Uniform Commercial Code financing statement filings with respect to operating leases or consignment arrangements entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(~~28~~27) Liens on assets of Foreign Restricted Subsidiaries securing Indebtedness of such Foreign Restricted Subsidiary incurred under clause (~~xix~~xv) of the definition of "Permitted Indebtedness" (or of any Foreign Restricted Subsidiary of such Foreign Restricted Subsidiary);

(~~29~~28) Production Payments, royalties, dedication of reserves under supply agreements, mining leases, or similar rights or interests granted, taken subject to, or otherwise imposed on properties consistent with normal practices in the mining industry and any precautionary UCC financing statement filings in respect of leases or consignment arrangements (and not any Indebtedness) entered into in the ordinary course of business; and

~~(30) [other Liens securing obligations in an aggregate amount not exceeding the greater of $[ ] and [ ]% of Consolidated Tangible Assets (it being understood that any decrease in Consolidated Tangible Assets following the date of Incurrence shall not create a Default with respect to such previously incurred Indebtedness or Liens).]~~

(~~31~~29) ~~[~~Liens on the Collateral securing Indebtedness secured by a lien that is junior to the Lien securing the Securities that has joined the Collateral Trust Agreement as "Junior Lien Debt" and other Obligations permitted to be incurred under Section 4.10(b)(~~xxi~~xvii).~~]~~

~~[~~"Permitted Receivables Financing" means any Receivables Financing pursuant to which a Securitization Subsidiary purchases or otherwise acquires Receivables of the Company or any Restricted Subsidiary and enters into a third party financing thereof on terms that the Board of Directors of the Company has concluded are customary and market terms fair to the Company and its Restricted Subsidiaries. It is understood and agreed that the Receivables Financing of Patriot Coal Receivables SPV Ltd. (including its successors) outstanding on the Issue Date shall be deemed to be a "Permitted Receivables Financing".~~]~~

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

"PIK Interest" means interest paid in the form of (1) an increase in the outstanding principal amount of the Securities or (2) the issuance of PIK Securities.

"PIK Securities" means additional Securities issued under this Indenture on the same terms and conditions as the Securities issued on the Issue Date in connection with the payment of PIK Interest.

"Plan Confirmation Order" means the order entered by the Bankruptcy Court on ~~[ ]~~December 17, 2013, which confirmed the Plan of Reorganization.

"Plan of Reorganization" means that certain Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code filed by the Company and certain of its affiliates on November 4, 2013 (Case No. 12-51502-659) in the United States Bankruptcy Court for the Eastern District of Missouri, as altered, amended, modified, or supplemented from time to time prior to entry of the Plan Confirmation Order, including any exhibits,

supplements, annexes, appendices and schedules thereto, as confirmed by such Bankruptcy Court pursuant to the Plan Confirmation Order.

"Preferred Stock" means, with respect to any Person, any and all Capital Stock which is preferred as to the payment of dividends or distributions, upon liquidation or otherwise, over another class of Capital Stock of such Person.

"Principal Amount" or "principal amount" of a Security means the Principal Amount as set forth on the face of the Security or, in the case of a Global Security, as such Principal Amount may be increased or decreased as set forth in Schedule I attached thereto, in all cases including any increase in the principal amount of the Securities as a result of the payment of PIK Interest.

"Priority Lien" means a Lien granted ~~by a Collateral Document to the Collateral Trustee for the benefit of the Priority Lien Secured Parties, at any~~at any time and from time to time, upon any property of the Company or any Guarantor to secure Priority Lien Obligations.

~~[~~"Priority Lien Debt" means any Indebtedness now or hereafter incurred under the ABL Credit Agreement and the ~~Term/~~LC/Term Credit Agreement ~~as in effect on the date hereof~~ (including, in each case, letters of credit and reimbursement Obligations with respect thereto) and all other Indebtedness constituting Priority Lien Obligations.~~]~~

For the avoidance of doubt, ABL Hedging Obligations ~~and [~~, ABL Bank ~~Group~~Product Obligations, LC/Term Cash Management Obligations~~]~~ and LC/Term Hedging Obligations do not constitute Priority Lien Debt but may constitute Priority Lien Obligations.

"Priority Lien Obligations" means the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt, including without limitation any post-petition interest whether or not allowable, together with all ABL Hedging Obligations ~~and [~~, ABL Bank ~~Group~~Product Obligations, LC/Term Cash Management Obligations~~]~~, LC/Term Hedging Obligations and any other Senior-Lien Obligations and all guarantees of any of the foregoing.

"Priority Lien Representative" means (1) ~~[administrative agents under various Credit Agreements] or (2~~in the case of the Term Facility, the Term Agent, (2) in the case of the L/C Facility, the LC Agent, (3) in the case of the ABL Credit Agreement, the ABL Agent or (4) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and is appointed as a representative of the Priority Lien Debt ~~(for purposes related to the administration of the Collateral Documents)~~ pursuant to the credit agreement or other agreement governing such Series of Priority Lien Debt and any other Senior Priority Agent (as defined in the Junior Lien Intercreditor Agreement), in any such case of this clause (4) who has delivered a joinder to the ~~Collateral Trust~~Junior Lien Intercreditor Agreement in the form required under the ~~Collateral Trust~~Junior Lien Intercreditor Agreement.

"Priority Lien Secured Parties" means the holders of Priority Lien Obligations~~,~~ and each Priority Lien Representative ~~and the Collateral Trustee~~.

"Private Placement Legend" means the legend set forth in Section 2.06(f)(i) to be placed on all Securities issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Production Payments" means with respect to any Person, all production payment obligations and other similar obligations with respect to coal and other natural resources of such Person that are recorded as a liability or deferred revenue on the financial statements of such Person in accordance with GAAP.

"Properties" means the facilities and properties currently or formerly owned, leased or operated by the Company or any of its Subsidiaries.

"Public Offering" means an Initial Public Offering or subsequent public offering or effective registration or an effective listing or qualification of equity securities of the Company on a securities market in accordance with applicable laws, rules or regulations, whether effected pursuant to an effective registration statement under the Securities Act or otherwise.

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

"Qualified Equity Interests" means all Equity Interests of a Person other than Disqualified Equity Interests.

"Rating Agency" means (1) each of Moody's and S&P and (2) if Moody's or S&P ceases to rate the Securities for reasons outside of the Company's control, a "nationally recognized statistical rating organization" within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Company, the Company or any direct or indirect parent of the Company as a replacement agency for Moody's or S&P, as the case may be.

"Real Property" shall mean, collectively, all right, title and interest of the Company or any other Subsidiary (including any leasehold or mineral estate) in and to any and all parcels of real property owned or operated by the Company or any other Subsidiary, whether by lease, license or other use agreement, including but not limited to, coal leases and surface use agreements, together with, in each case, all improvements and appurtenant fixtures (including all conveyors, preparation plants or other coal processing facilities, silos, shops and load out and other transportation facilities), easements and other property and rights incidental to the ownership, lease or operation thereof, including but not limited to, access rights, water rights and extraction rights for minerals.

"Real Property Lease" means any lease, license, letting, concession, occupancy agreement, sublease, easement, option or right of way to which such Person is a party and is granted a possessory interest in or a right to use or occupy all or any portion of any Real Property (including, without limitation, any water or surface right with respect to Real Property not owned in fee by such Person, any right to timber and natural gas (including coalbed methane and gob gas) necessary to recover Coal from any portion of Real Property not owned in fee by such Person or the right to extract minerals from any portion of Real Property not owned in fee by such Person) and every amendment or modification thereof.

~~[“Receivables” means accounts receivable (including all rights to payment created by or arising from the sale of goods, leases of goods or the rendition of services, no matter how evidenced (including in the form of a chattel paper).~~

~~“Receivables Financing” means any receivable securitization program or arrangement pursuant to which the Company or any of its Restricted Subsidiaries sells Receivables for financing purposes.]~~

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

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

“Regulation S Permanent Global Security” means a Global Security substantially in the form of Exhibit A hereto, bearing the Global Security Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Securities sold in reliance on Regulation S.

“Regulation S Temporary Global Security” means a temporary Global Security substantially in the form of Exhibit A, bearing the Private Placement Legend and the Regulation S Temporary Global Security Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Securities initially sold in reliance on Rule 903 of Regulation S.

“Regulation S Temporary Global Security Legend” means the legend set forth in Section 2.06(f)(iii).

~~[~~“Reinvestment Rate” shall mean with respect to the Securities, 0.50% plus the arithmetic mean of the yields under the heading “Week Ending” published in the most recent Statistical Release under the caption “Treasury Constant Maturities” for the maturity (rounded to the nearest month) corresponding to the remaining life to maturity, as of the accelerated payment date of the Securities. If no maturity exactly corresponds to such maturity, yields for the two published maturities most closely corresponding to such maturity shall be calculated pursuant to the immediately preceding sentence and the Reinvestment Rate shall be interpolated or extrapolated from such yields on a straight-line basis, rounding in each of such relevant periods to the nearest month. For the purposes of calculating the Reinvestment Rate, the most recent Statistical Release published prior to the date of determination of the Acceleration Premium shall be used.~~]~~

“Responsible Officer” means, when used with respect to the Trustee, any officer assigned to the Corporate Trust Department (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and for the purposes of Section 7.01(c)(ii) and the second sentence of Section 7.05 shall also include any other officer of the Trustee to whom any

corporate trust matter is referred because of such officer's knowledge of and familiarity with the particular subject.

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

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

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

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

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this Indenture, all references to Restricted Subsidiaries shall mean Restricted Subsidiaries of the Company.

~~["Reversion Date" means the date on which one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Securities below an Investment Grade Rating.]~~

"Rights Offering Warrants" means (i) the warrants to acquire 10,000,000 shares of Class A Common Stock issued pursuant to the Warrants Rights Offering, (ii) the warrants to acquire 500,000 shares of Class A Common Stock in connection with the issuance of the Backstop Fee Notes (as defined in the Backstop Agreement) and (iii) the Management Rights Offering Warrants.

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

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

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

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

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor to the rating agency business thereof.

"Sale and Leaseback Transaction" means, with respect to any Person, an arrangement whereby such Person enters into a lease of property previously transferred by such Person to the lessor.

"SEC" means the Securities and Exchange Commission.

"Secured Debt" means Parity Lien Debt and Priority Lien Debt.

"Secured Debt Documents" means the Parity Lien Documents and the Priority Lien Documents.

"Secured Debt Representative" means each Parity Lien Representative and each Priority Lien Representative.

"Secured Obligations" means Parity Lien Obligations and Priority Lien Obligations.

"Secured Parties" means the holders of Secured Obligations, the Secured Debt Representatives and the Collateral Trustee.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as in effect from time to time.

"Securities Obligations" has the meaning given to it in the Collateral Trust Agreement.

~~[~~"Securitization Subsidiary" means a Subsidiary of the Company:

~~(1) that is designated a "Securitization Subsidiary" by the Company,~~

~~(2) that does not engage in, and whose charter prohibits it from engaging in, any activities other than Permitted Receivables Financings and any activity necessary, incidental or related thereto,~~

~~(3) no portion of the Indebtedness or any other obligation, contingent or otherwise, of which~~

~~(A) is guaranteed by the Company or any other Restricted Subsidiary of the Company,~~

~~(B) is recourse to or obligates the Company or any other Restricted Subsidiary of the Company in any way, or~~

~~(C) subjects any property or asset of the Company or any other Restricted Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof~~

~~(4) with respect to which neither the Company nor any other Restricted Subsidiary of the Company (other than an Unrestricted Subsidiary) has any obligation to maintain or preserve its financial condition or cause it to achieve certain levels of operating results, and~~

~~(5) with respect to which all investments therein by the Company or any Restricted Subsidiary are limited to the Permitted Investments allowed under clause (15) of the definition of "Permitted Investments,"~~

~~other than, in respect of clauses (3)(A), (B) and (C) and (4), pursuant to customary representations, warranties, covenants and indemnities entered into in connection with a Permitted Receivables Financing.]~~

"Security" or "Securities" means any of the Company's 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023, as amended or supplemented from time to time, issued under this Indenture, including any PIK Securities issued in respect of Securities and any increase in the principal amount of outstanding Securities as a result of the payment of PIK Interest.

"Security Agreement" means that certain Pledge and Security Agreement (including any and all supplements thereto), dated as of the Issue Date, by and among the Company, the Subsidiaries of the Company from time to time party thereto and the Collateral Trustee, for the benefit of the ~~[~~Secured Parties (as defined in the Collateral Trust Agreement)~~/Parity Lien Obligations]~~, and any other pledge or security agreement entered into, after the date of this Indenture by the Company or any Subsidiary (as required by this Indenture or any Collateral Document), or any other Person granting any Liens to secure the Securities Obligations, as the same may be amended, amended and restated, restated, supplemented, modified, extended, renewed or replaced from time to time.

~~[~~"~~Security and Collateral Agency Agreement~~" ~~means the Security and Collateral Agency Agreement, dated as of the Issue Date, among the Company, certain of its Subsidiaries from time to time party thereto, the Bank Group Representative, the Collateral Trustee and [ ], as collateral agent for the benefit of the Bank Group Secured Parties (as defined in the Senior Priority Lien Intercreditor Agreement) and the Secured Parties (as defined in the Collateral Trust Agreement), as the same may be amended, amended and restated, restated, supplemented, renewed, extended, replaced or otherwise modified from time to time.]~~

"Securityholder" or "Holder" means a Person in whose name a Security is registered on the Registrar's books.

"~~Senior Lenders~~Senior-Lien Obligations" has the meaning set forth in the ~~Senior Priority~~Junior Lien Intercreditor Agreement.

"Senior Priority After-Acquired Property" means any and all assets or property of the Company or any Guarantor that secures any Bank Indebtedness that is not already subject to the Lien under the Collateral Documents, except to the extent such asset or property constitutes Excluded Property.

~~"Senior Priority Lien Intercreditor Agreement" means the intercreditor agreement, dated as of the Issue Date, among [ ], as administrative agent under the Letter of Credit Facility and the Collateral Trustee, as collateral trustee under the Collateral Trust Agreement, and the other parties from time to time party thereto, as it may be amended, amended and restated, restated, supplemented, modified replaced, extended, restructured or renewed from time to time in accordance with this Indenture.~~

"Series of Parity Lien Debt" means, severally, the Securities and each other issue or series of Indebtedness that constitutes Parity Lien Debt for which series a single transfer register is maintained. For the avoidance of doubt, all reimbursement or participation obligations in respect of letters of credit issued pursuant to a Parity Lien Document shall be part of the same Series of Parity Lien Debt as all other Parity Lien Debt incurred pursuant to such Parity Lien Document.

"Series of Priority Lien Debt" means Indebtedness outstanding under the ABL Credit Agreement, the ~~Term/~~LC/Term Credit Agreement and each other series or issue of Priority Lien Debt for which a single transfer register is maintained. For the avoidance of doubt, all reimbursement or participation obligations in respect of letters of credit issued pursuant to a Priority Lien Document shall be part of the same Series of Priority Lien Debt as all other Priority Lien Debt incurred pursuant to such Priority Lien Document.

"Series of Secured Debt" means each Series of Parity Lien Debt and each Series of Priority Lien Debt.

"Significant Subsidiary" has the meaning ascribed to such term in Regulation S-X (17 CFR Part 210). Unless the context requires otherwise, "Significant Subsidiary" shall refer to a Significant Subsidiary of the Company.

"Specified Cure" has the meaning set forth in each of the ~~Term/LC~~ Credit ~~Agreement~~Agreements.

"Stated Maturity" means ~~(i)~~ with respect to any Indebtedness, the date specified as the fixed date on which the final installment of principal of such Indebtedness is due and payable ~~or (ii) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness~~, not including any contingent obligation to repay, redeem or repurchase prior to the regularly scheduled date for payment.

"Subordinated Indebtedness" means (a) with respect to the Company, any Indebtedness of the Company which is by its written terms subordinated in right of payment to the Securities, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its written terms subordinated in right of payment to its Guarantee.

"Subsidiary" means, with respect to any Person, any corporation, association, limited liability company or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof). Unless otherwise specified, "Subsidiary" means a Subsidiary of the Company.

~~[~~"Suspension Period" means the period of time between a Covenant Suspension Event and the related Reversion Date.~~]~~

"Swap Termination Value" means, in respect of any one or more Hedging Agreements, after taking into account the effect of any valid netting agreement relating to such Hedging Agreements, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreements.

"Taxes" means any present or future tax, levy, import, duty, charge, deduction, withholding, assessment or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any Governmental Authority or other taxing authority.

~~"Term/LC Credit Agreement" shall mean (i) the Credit Agreement, dated as of the date hereof, by and among the Company, as borrower, certain of its Subsidiaries as guarantors, the lenders party thereto from time and time, Barclays Bank PLC, as administrative agent for the L/C lenders and L/C issuers, Barclays Bank PLC, as administrative agent for the term lenders, and [Barclays Bank PLC], as collateral agent for the lenders, the L/C issuers and the other secured parties, as in effect on the Issue Date and as the same may be amended, modified, supplemented, extended, renewed, restated, replaced or refinanced from time to time, and (ii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, in each case, in accordance with the provisions hereof and as otherwise permitted under the Senior Priority Lien Intercreditor Agreement.~~

"Term Agent" has the meaning set forth in the Junior Lien Intercreditor Agreement.

"Term Facility" means (i) ~~[~~the "Term Facility" as such term is defined in the ~~Senior Priority Lien Intercreditor~~LC/Term Credit Agreement~~]~~, and (ii) all agreements, documents and/or instruments executed and/or delivered in connection therewith, from time to time, as amended, extended, renewed, restated, supplemented and/or modified or refinanced from time to time, in each case, in accordance with the provisions hereof and ~~as otherwise permitted under the Senior Priority Lien Intercreditor Agreement and~~ so long as such Indebtedness is otherwise permitted under Section 4.10(b)(i) hereof.

"TIA" means the Trust Indenture Act of 1939 as in effect on the date of this Indenture, *provided*, *however*, that in the event the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

"Trustee" means the party named as the "Trustee" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent successor.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York or any other jurisdiction the laws of which are required to be applied in connection with the issue of perfection of security interests.

"Unrestricted Cash" means cash or Cash Equivalents of the Company and its Restricted Subsidiaries that would not appear as "restricted" on a consolidated balance sheet of the Company and its Subsidiaries.

"Unrestricted Definitive Security" means one or more Definitive Securities that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Security" means a permanent Global Security substantially in the form of Exhibit A attached hereto that bears the Global Security Legend and that has the "Schedule of Increases or Decreases in the Global Security" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary or its nominee, representing a series of Securities that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means:

~~(1) any Securitization Subsidiary;~~

(~~2~~1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided below; and

(~~3~~2) any Subsidiary of an Unrestricted Subsidiary;

the Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; *provided, however*, that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any of the Restricted Subsidiaries; *provided, further, however*, that either:

(a) the Subsidiary to be so designated has total consolidated assets of $1,000 or less; or

(b) if such Subsidiary has consolidated assets greater than $1,000, then such designation would be permitted under Section 4.11;

the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however*, that immediately after giving effect to such designation:

(x) (1) the Company could Incur $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.10(a), or (2) the Fixed

Charge Coverage Ratio would be greater than such ratio immediately prior to such designation, in each case on a *pro forma* basis taking into account such designation, and

(y) no Event of Default shall have occurred and be continuing.

Any such designation by the Company shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Government Obligations" means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agent or instrumentality thereof, *provided* that the full faith and credit of the United States of America is pledged in support thereof.

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

"Voting Stock" means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

"Voting Trust" means that certain voting trust established pursuant to that certain Voting Trust Agreement, by and between the Company and Torque Point Advisors, LLC, dated as of the date hereof, as may be amended, modified or supplemented from time to time.

"Warrants Rights Offering" means the rights offering for the Rights Offering Warrants described in Section 5.6 of the Plan of Reorganization.

"Wholly Owned Restricted Subsidiary" is any Wholly Owned Subsidiary that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares or shares required to be held by Foreign Subsidiaries) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

Section 1.02 Other Definitions.

Term	Defined in Section
Act	Section 1.05(a)
Asset Sale Offer	Section 4.13(a)(iv)
Article 9 Collateral	Section 11.05(a)
Change of Control Repurchase Offer	Section 4.15(b)
~~[Covenant Suspension Event~~	~~Section 4.17]~~
Event of Default	Section 6.01
Excess Proceeds	Section 4.13(a)(iv)
Fixed Charge Coverage Ratio Test	Section 4.10(a)

Increased Amount	Section 4.16(d)
Legal Holiday	Section 12.08
Management Incentive Securities	Section 4.10(b)(xiv)
Offer Period	Section 4.13(c)
Paying Agent	Section 2.03
Permitted Indebtedness	Section 4.10(b)
Permitted Refinancing Indebtedness	Section 4.10(b)(vi)
~~Public Offering Pro Rata Portion~~	~~Section 4.15(b)~~
Public Offering Repurchase Offer	Section 4.15(b)
Registrar	Section 2.03
Related Party Transaction	Section 4.14(a)
Restricted Payments	Section 4.11(a)
Rule 3-16	Section 11.01(b)(i)
Rule 144A Information	Section 4.05
~~[Suspended Covenants~~	~~Section 4.17]~~

Section 1.03 Incorporation by Reference of Trust Indenture Act. In the event this Indenture is qualified under the TIA, whenever this Indenture expressly refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"Commission" means the SEC.

"indenture securities" means the Securities.

"indenture security holder" means a Securityholder.

"indenture to be qualified" means this Indenture.

"indenture trustee" or "institutional trustee" means the Trustee.

"obligor" on the indenture securities means the Company.

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

Section 1.04 Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it in this Article;

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

(c) "or" is not exclusive;

(d) "including" means including, without limitation;

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

(f) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision hereof;

(g) unsecured Indebtedness shall not be deemed to be subordinated or junior to Secured Indebtedness merely because it is unsecured, (2) Secured Indebtedness shall not be deemed to be subordinated or junior to any other Secured Indebtedness merely because it has a junior priority with respect to the same collateral and (3) Indebtedness that is not guaranteed shall not be deemed to be subordinated or junior to Indebtedness that is guaranteed merely because of such guarantee; and

(h) references herein to Articles, Sections, Annexes and Exhibits are references to Articles, Sections, Annexes and Exhibits to this Indenture unless the context otherwise clearly indicates.

Section 1.05 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority.

The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of registered Securities shall be proved by the register maintained by the Registrar.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

(e) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Securities shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE II
THE SECURITIES

Section 2.01 Form and Dating.

(a) General. The Securities and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Securities may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication. The Securities, including any PIK Securities, shall be issued in minimum denominations of $1.00 and integral multiples of $1.00 in excess thereof~~, subject to the issuance of PIK Securities, which may be issued in minimum denominations of $1.00 and integral multiples of $1.00~~.

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

After the Issue Date, the Company shall be entitled, subject to its compliance with Section 2.02 and Section 4.10, to issue Additional Securities under this Indenture, which Securities shall have identical terms as the Initial Securities issued on the Issue Date, other than with respect to the date of issuance, issue price and, if applicable, the first interest payment date.

The Initial Securities, the Additional Securities and the PIK Securities shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Securities shall include the Initial Securities and any Additional Securities or PIK Securities; *provided*, *however*, that in the event that any Additional Securities are not fungible with the Securities for U.S. federal income tax purposes, such nonfungible Additional Securities shall be issued with a separate CUSIP or ISIN number so that they are distinguishable from the Securities.

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

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Security will be exchanged for beneficial interests in the Regulation S Permanent Global Security pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Security, the Trustee will cancel the Regulation S Temporary Global Security. The aggregate principal amount of the Regulation S Temporary Global Security and the Regulation S Permanent Global Security may from time to time be increased or decreased by adjustments made on the records of the Registrar and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(c) Euroclear and Clearstream Procedures Applicable. The Applicable Procedures shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Security and the Regulation S Permanent Global Security that are held by Participants through Euroclear or Clearstream. The Trustee shall have no duties in respect of this Section 2.01(c) and shall not be deemed to have knowledge of the contents of the documents cited in this subsection.

(d) Certificated Securities. Securities not issued as interests in the Global Securities will be issued in certificated form substantially in the form of Exhibit A attached hereto.

Section 2.02 Execution and Authentication. The Securities shall be executed on behalf of the Company by any Officer. The signature of the Officer of the Company on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at the time of the execution of the Securities the proper Officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of authentication of such Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an officer or other authorized signatory of the Trustee, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

The Trustee shall authenticate and deliver Securities (including Additional Securities) for original issue upon receipt of a Company Order and an Opinion of Counsel covering such matters as the Trustee or the Collateral Trustee may reasonably request without any further action by the Company. In addition, in connection with the payment of PIK Interest, the Trustee shall upon receipt of a Company Order and an Opinion of Counsel authenticate and deliver PIK Securities for an aggregate principal amount specified in such Company Order for such PIK Securities issued hereunder.

The Securities shall be issued only in registered form without coupons and only in minimum denominations of $1.00 of Principal Amount and any integral multiple thereof.

Section 2.03 Registrar and Paying Agent. The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Securities may be presented for purchase or payment ("Paying Agent"). The Registrar shall keep a register of the Securities and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term Paying Agent includes any additional paying agent, including any named pursuant to Section 4.04.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar (other than the Trustee). The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee by a Company Order of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to

appropriate compensation therefor pursuant to Section 7.07. The Company or any Subsidiary or an Affiliate of either of them may act as Paying Agent, Registrar or co-registrar.

The Company initially appoints DTC to act as Depositary with respect to the Global Securities.

The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Securities.

Section 2.04 Paying Agent to Hold Money in Trust. Except as otherwise provided herein, on or prior to each due date of payments in respect of any Security, the Company shall deposit with the Paying Agent a sum of money (in immediately available funds if deposited on the due date) sufficient to make such payments when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money held by the Paying Agent for the making of payments in respect of the Securities and shall notify the Trustee of any Default by the Company in making any such payment. At any time during the continuance of any such Default, the Paying Agent shall, upon the written request of the Trustee, forthwith pay to the Trustee all money so held in trust. If the Company, a Subsidiary or an Affiliate of either of them acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by it. Upon doing so, the Paying Agent shall have no further liability for the money.

Section 2.05 Securityholder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Securityholders. If the Trustee is not the Registrar, the Company shall cause to be furnished to the Trustee at least semiannually on March 15 and September 15 a listing of Securityholders dated within 15 days of the date on which the list is furnished and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Securityholders.

Section 2.06 Transfer and Exchange.

(a) Transfer and Exchange of Global Securities. A Global Security may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Securities will be exchanged by the Company for Definitive Securities if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary or (ii) the Company in its sole discretion determines that the Global Securities (in whole but not in part) should be exchanged for Definitive Securities and delivers a written notice to such effect to the Trustee. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive

Securities shall be issued in such names as the Depositary shall instruct the Trustee. Global Securities also may be exchanged or replaced, in whole or in part, as provided in Section 2.07 and Section 2.09 hereof. A Global Security may not be exchanged for another Security other than as provided in this Section 2.06(a), however, beneficial interests in a Global Security may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Securities. The transfer and exchange of beneficial interests in the Global Securities shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Neither the Trustee nor the Registrar shall have any duty to monitor compliance with the requirements or conditions for effecting transfers of beneficial interests within a Global Security. Beneficial interests in the Restricted Global Securities shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Securities also shall require compliance with either clause (i) or (ii) below, as applicable, as well as one or more of the other following subsections, as applicable:

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

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Securities. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) both (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) both (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Security in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given

by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Security shall be registered to effect the transfer or exchange referred to in (1) above; provided that in no event shall Definitive Securities be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Security prior to the expiration of the Restricted Period as certified by the Company to the Registrar. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Securities contained in this Section, the Trustee shall adjust the principal amount of the relevant Global Security(s) pursuant to Section 2.06(g) hereof.

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

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

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

(C) if the transferee will take delivery in the form of a beneficial interest in an Accredited Investor Global Security, then the transferor must deliver a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Security for Beneficial Interests in an Unrestricted Global Security. A beneficial interest in any Restricted Global Security may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Security or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

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

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

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

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

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

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

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

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

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate

substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

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

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

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

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

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Security to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Security in the appropriate principal amount. Any Definitive Security issued in exchange for a beneficial interest in a Restricted Global Security pursuant to this Section 2.06(c)(i) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Securities to the Persons in whose names such Securities are so registered. Any Definitive Security issued in exchange for a beneficial interest in a Restricted Global Security pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and the Regulation S Temporary Global Security Legend, as applicable, and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Security to Definitive Securities. Notwithstanding Section 2.06(c)(i)(A) and Section

2.06(c)(i)(C), a beneficial interest in the Regulation S Temporary Global Security may not be exchanged for a Definitive Security or transferred to a Person who takes delivery thereof in the form of a Definitive Security prior to (A) the expiration of the Restricted Period as certified to the Registrar by the Company and (B) the receipt by the Registrar of a certificate in the form attached as Exhibit B hereto, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Securities to Unrestricted Definitive Securities. A Holder of a beneficial interest in a Restricted Global Security may exchange such beneficial interest for an Unrestricted Definitive Security or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Security only if the Registrar receives the following:

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

(B) if the holder of such beneficial interest in a Restricted Global Security proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Security that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

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

(iv) Beneficial Interests in Unrestricted Global Securities to Unrestricted Definitive Securities. If any holder of a beneficial interest in an Unrestricted Global Security proposes to exchange such beneficial interest for a Definitive Security or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Security, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Security to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Security in the appropriate principal amount. Any Definitive Security issued in exchange for a beneficial interest pursuant to this

Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Securities to the Persons in whose names such Securities are so registered. Any Definitive Security issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

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

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

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

(B) if such Restricted Definitive Security is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Security is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

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

(E) if such Restricted Definitive Security is being transferred to an Accredited Investor or an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including

the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Security is being transferred to the Company or any of their Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Security is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Security, increase or cause to be increased the aggregate principal amount of, in the case of clause (A), (D), (F) or (G) above, the appropriate Restricted Global Security, in the case of clause (B) above, the 144A Global Security, in the case of clause (C) above, the Regulation S Global Security, and in the case of clause (E) above, the Accredited Investor Global Security.

(ii) Restricted Definitive Securities to Beneficial Interests in Unrestricted Global Securities. A Holder of a Restricted Definitive Security may exchange such Security for a beneficial interest in an Unrestricted Global Security or transfer such Restricted Definitive Security to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security only if the Registrar receives the following:

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

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

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

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Securities and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Security.

(iii) Unrestricted Definitive Securities to Beneficial Interests in Unrestricted Global Securities. A Holder of an Unrestricted Definitive Security may exchange such Security for a beneficial interest in an Unrestricted Global Security or transfer such Definitive Securities to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Security and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Securities.

If any such exchange or transfer from a Definitive Security to a beneficial interest is effected pursuant to clause (ii) or (iii) above at a time when an Unrestricted Global Security has not yet been issued, the Company shall issue and, upon receipt of a Company Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Securities in an aggregate principal amount equal to the principal amount of Definitive Securities so transferred.

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

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

(A) if the transfer will be made to a QIB in accordance with Rule 144A under the Securities Act, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

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

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

(ii) Restricted Definitive Securities to Unrestricted Definitive Securities. Any Restricted Definitive Security may be exchanged by the Holder thereof for an Unrestricted Definitive Security or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Security if the Registrar receives the following:

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

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

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

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

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

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Security and each Definitive Security (and all Securities issued in

exchange therefor or substitution therefor) shall bear the legend in substantially the following form:

"THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (5) PURSUANT TO ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED ON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS."

(B) Notwithstanding the foregoing, any Global Security or Definitive Security issued pursuant to clause (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii), or (e)(iii) of this Section 2.06 (and all Securities issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Security Legend. Each Global Security shall bear a legend in substantially the following form:

"THIS GLOBAL SECURITY IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS SECURITY) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO ~~SECTION~~Section 2.06(~~G~~g) OF THE INDENTURE, (II) THIS GLOBAL SECURITY MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO ~~SECTION~~Section 2.06(~~A~~a) OF THE INDENTURE, (III) THIS GLOBAL SECURITY MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO ~~SECTION~~Section 2.10 OF THE INDENTURE AND (IV) THIS GLOBAL SECURITY MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY

SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iii) Regulation S Temporary Global Security Legend. Each temporary Security that is a Global Security issued pursuant to Regulation S shall bear a legend in substantially the following form:

"THIS GLOBAL SECURITY IS A TEMPORARY GLOBAL SECURITY FOR PURPOSES OF REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. NEITHER THIS TEMPORARY GLOBAL SECURITY NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD OR DELIVERED, EXCEPT AS PERMITTED UNDER THE INDENTURE REFERRED TO BELOW.

NO BENEFICIAL OWNERS OF THIS TEMPORARY GLOBAL SECURITY SHALL BE ENTITLED TO RECEIVE PAYMENT OF PRINCIPAL OR INTEREST HEREON UNLESS THE REQUIRED CERTIFICATIONS HAVE BEEN DELIVERED PURSUANT TO THE TERMS OF THE INDENTURE."

(iv) OID Legend. Each Global Security and each Definitive Security (and all Securities issued in exchange therefor or substitution therefor) shall bear the legend in substantially the following form:

"THIS SECURITY HAS BEEN ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR PURPOSES OF SECTIONS 1271 ET SEQ. OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE DATE OF THIS SECURITY IS DECEMBER 18, 2013. FOR INFORMATION REGARDING THE ISSUE PRICE, THE YIELD TO MATURITY AND THE AMOUNT OF OID PER $1,000 OF PRINCIPAL AMOUNT, PLEASE CONTACT THE COMPANY AT PATRIOT COAL CORPORATION, 12312 OLIVE BOULEVARD, SUITE 400, ST. LOUIS, MISSOURI 63141, ATTENTION: CHIEF FINANCIAL OFFICER."

(g) Cancellation and/or Adjustment of Global Securities. At such time as all beneficial interests in a particular Global Security have been exchanged for Definitive Securities or a particular Global Security has been redeemed, repurchased or canceled in whole and not in part, each such Global Security shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Security is

exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security or for Definitive Securities, the principal amount of Securities represented by such Global Security shall be reduced accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security, such other Global Security shall be increased accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Securities and Definitive Securities upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Security or to a Holder of a Definitive Security for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Section 2.09, Section 4.13, Section 4.15 and Section 9.05 hereof).

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

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

(v) The Company shall not be required to register the transfer of or to exchange a Security between a record date and the next succeeding interest payment date.

(vi) Prior to due presentment for the registration of a transfer of any Security, the Trustee, any Paying Agent, any Registrar, any co-registrar and the Company may deem and treat the Holder as the absolute owner of such Security for the purpose of receiving payment of principal of and interest on such Securities and for all other purposes, and none of the Trustee, any Paying

Agent, any Registrar, any co-registrar or the Company shall be affected by notice to the contrary.

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

Section 2.07 Replacement Securities. If any mutilated Security is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Security, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Security if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company may charge for its expenses in replacing a Security.

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

Section 2.08 Outstanding Securities; Determinations of Holders' Action. The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Company or any Subsidiary of the Company, or by any Person directly or indirectly controlled by the Company or any Subsidiary of the Company, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Securities that the Trustee knows are so owned will be so disregarded. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Company to be owned or held by or for the account of any of the above described Persons, and the Trustee shall be entitled to accept and rely upon such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are outstanding for the purpose of any determination.

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

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

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

Section 2.09 Temporary Securities. Pending the preparation of definitive Securities, the Company may execute, and upon receipt of a Company Order the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as conclusively evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for such purpose pursuant to Section 2.03, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall, upon receipt of a Company Order, authenticate and deliver in exchange therefor a like Principal Amount of definitive Securities of authorized denominations. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

Section 2.10 Cancellation. All Securities surrendered for payment or redemption by the Company pursuant to redemption or registration of transfer or exchange, shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation, except as otherwise permitted by this Indenture. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in accordance with the Trustee's customary procedure.

Section 2.11 Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of the Principal Amount of the Security in respect thereof, premium, if any, and accrued and unpaid interest thereon for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the

Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12 CUSIP Numbers. The Company may issue the Securities with one or more "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Securities, and any such notice shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP numbers.

Section 2.13 Defaulted Interest.

If the Company defaults in a payment of interest on the Securities, the Company shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, in each case at the rate provided in the Securities. If the Company pays the defaulted interest on or prior to 30 days of the default in payment in interest, payment shall be paid to the record Holders of the Securities as of the original record date. If such default in payment of interest continues after 30 days, payment shall be paid to the record Holders of the Securities on a subsequent special record date. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Security and the date of the proposed payment. The Company shall fix or cause to be fixed such special record date, if any, and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.14 PIK Interest.

(a) In the event the Company elects to pay PIK Interest, no later than two Business Days prior to the relevant interest payment date the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Securities represented by Certificated Securities, the required amount of new PIK Securities represented by Certificated Securities (rounded up to the nearest whole dollar) and a Company Order to authenticate and deliver such PIK Securities or (ii) with respect to Securities represented by one or more Global Securities, a Company Order to increase the outstanding principal amount of such Global Securities by the required amount (rounded up to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of new PIK Securities represented by Global Securities (rounded up to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Securities).

(b) Any PIK Securities shall, after being executed and authenticated pursuant to Section 2.02, be (i) if such PIK Securities are Certificated Securities,

mailed to the Person entitled thereto as shown on the register maintained by the Registrar for the Certificated Securities as of the relevant record date or (ii) if such PIK Securities are Global Securities, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of PIK Interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Securities outstanding for which PIK Securities will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

(c) Payment shall be made in such form and terms as specified in this Section 2.14 and the Company shall and the Paying Agent may take additional steps as is necessary to effect such payment. The Company may not issue PIK Securities in lieu of paying interest in cash if such interest is payable with respect to any principal amount that is due and payable, whether at Stated Maturity, upon redemption, repurchase or otherwise.

ARTICLE III
REDEMPTION OF SECURITIES

Section 3.01 No Right of Redemption. No sinking fund is provided for the Securities. The Company shall not have the right to redeem any Securities (other than in connection with any replacement, retirement, cancellation or exchange of Securities as contemplated in Article II).

The Company may, at any time and from time to time, purchase Securities in the open market or otherwise, subject to compliance with this Indenture and compliance with all applicable securities laws.

ARTICLE IV
COVENANTS

Section 4.01 Payment of Securities. The Company shall promptly make all payments in respect of the Securities on the dates and in the manner provided in the Securities or pursuant to this Indenture. Any cash payments to be given to the Trustee or Paying Agent, as the case may be, shall be deposited with the Trustee or Paying Agent, as the case may be, in immediately available funds by 10:00 a.m. (New York City time) by the Company. Principal Amount, premium, if any, and interest, if any, due on overdue amounts shall be considered paid on the applicable date due if at 10:00 a.m. (New York City time) on such date the Trustee or the Paying Agent, as the case may be, holds, in accordance with this Indenture, money sufficient to pay all such amounts then due.

PIK Interest, if any, shall be paid in the manner provided in Section 2.14. Any payment of PIK Interest shall be considered paid on the date it is due if on such date (1) if PIK Securities (including PIK Securities that are Global Securities) have been issued therefor, such PIK Securities have been authenticated in accordance with the terms of this Indenture and (2) if the payment is made by increasing the principal amount of Global Securities then

authenticated, the Trustee has increased the principal amount of Global Securities then authenticated by the required amount.

The Company shall, to the extent permitted by law, pay interest on overdue amounts in cash at the rate per annum set forth in paragraph 1 of the Securities, compounded semiannually, which interest shall accrue from the date such overdue amount was originally due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable on demand. The accrual of such interest on overdue amounts shall be in addition to the continued accrual of interest on the Securities.

Section 4.02 Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Securities are outstanding, the Company will furnish to the Trustee:

(i) within 90 days after the end of each fiscal year, annual financial statements prepared in accordance with GAAP that would be required to be included in Item 8 of Part II of Form 10-K if the Company were required to file such form, together with a "Management's Discussion and Analysis of Financial Condition and Results of Operations" that describes the financial condition and results of operations of the Company and its consolidated Subsidiaries, including a presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of (a) if material, the financial condition and results of operations of the Guarantors separate from the financial condition and results of operations of Restricted Subsidiaries that are not Guarantors, and (b) if material, the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company, and a report on the annual financial statements by the Company's certified independent accountants;

(ii) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, all quarterly financial statements prepared in accordance with GAAP that would be required to be included in Item 1 of Part I of Form 10-Q if the Company were required to file such form, together with a "Management's Discussion and Analysis of Financial Condition and Results of Operations" that describes the financial condition and results of operations of the Company and its consolidated Subsidiaries, including a presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of (a) if material, the financial condition and results of operations of the Guarantors separate from the financial condition and results of operations of Restricted Subsidiaries that are not Guarantors, and (b) if material, the financial condition and results of operations of the Company and its Restricted

Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company; and

(iii) (a) within five business days after the occurrence of each event that would have been required to be reported in a Current Report on Form 8-K if the Company were required to file this form, reports containing substantially all of the information with respect to the Company and its Subsidiaries that would be required to be filed in a Current Report on Form 8-K pursuant to Sections 1 (other than Item 1.04), 2 (other than Item 2.02) and 4 and Items 5.01 and 5.02 (other than 5.02(c),(d) and (e) and other compensation information) of Form 8-K if the Company had been a reporting company under the Exchange Act ~~(other than Items 1.01 or 1.02 (in each case, to the extent not relating to a financing or acquisition), 1.04, 2.02, 2.05, 2.06, 5.02, 5.03, 5.04, 5.05, 5.06 and 5.07 or any of the Items under Sections 3, 6, 7, 8 or 9 of Form 8-K~~and (b) within five business days after notice or knowledge by the Company or any Guarantor of (1) any accidents, explosions, implosions, collapses or flooding at or otherwise related to the Properties that result in (x) any fatality or (y) the trapping of any person in any mine for more than twenty-four hours and (2) the issuance of any closure order pursuant to any Environmental Law or pursuant to any Environmental Permit that could reasonably be expected to directly or indirectly result in the closure or cessation of operation of any mine for a period of more than 5 consecutive days, reports containing substantially all of the information relevant to the event(s) described in this clause (b); *provided, however*, that no such ~~current~~ report, in the case of clause (a) or (b), will be required to be furnished if the Company determines in good faith that such event is not material to Holders or to the business, assets, operations or financial positions of the Company and its Restricted Subsidiaries, taken as a whole.

Notwithstanding the foregoing, nothing in this Indenture will require (a) the Company to comply with Section 302 or Section 404 or Section 906 of the Sarbanes-Oxley Act of 2002, related Items 307 and 308 of Regulation S-K promulgated by the Commission, or Items 301 or 302 of Regulation S-K or Item 10(e) of Regulation S-K (with respect to any non-GAAP financial measures contained therein), in each case, as in effect on the date of the Issue Date, (b) any reports to contain the separate financial information for Guarantors as contemplated by Rule 3-05, Rule 3-09 or Rule 3-10 of Regulation S-X promulgated by the SEC, (c) any reports to contain information required by Item 601 of Regulation S-K, or (d) any reports to include the schedules identified in Section 5-04 of Regulation S-X under the Securities Act.

(b) References under this Section 4.02 to the laws, rules, forms, items, articles and sections shall be to such laws, rules, forms, items, articles and sections as they exist on the Issue Date, without giving effect to amendments thereto that may take effect after the Issue Date.

(c) The Company will (a) post such financial statements and other information on its public website (or through a public announcement or such other

medium as the Company may use at the time) within the time periods specified above and (b) arrange and participate in quarterly conference calls to discuss its results of operations no later than ten business days following the date on which each of the quarterly and annual reports are made available as provided above; *provided* that the Company may limit the information made available during such conference calls to the extent the Company determines, in its sole discretion, that such information that (x) would not be material to Holders or to the business, assets, operations or financial positions of the Company and its Restricted Subsidiaries, taken as a whole, or (y) would otherwise cause material competitive harm to the business, assets, operations, financial position or prospects of the Company and its Restricted Subsidiaries, taken as a whole. The Company will provide on its public website (or through a public announcement or such other medium as the Company may use at the time) dial-in conference call information substantially concurrently with the posting of such reports as provided for in clause (a) above.

(d) If at any time the Securities are guaranteed by a direct or indirect parent of the Company and such parent has furnished the reports described herein as required by this Section 4.02 as if such parent were the Company (including any financial information required hereby), the Company shall be deemed to have furnished the reports required under this Section 4.02; *provided*, (a) such reports include such disclosure as is reasonably necessary to describe any material differences between the consolidated financial information of such direct or indirect parent and the consolidated financial information of the Company and its Restricted Subsidiaries, or (b) such direct or indirect parent does not conduct, transact or otherwise engage in any material business or operations other than the business and operations conducted through the Company or its ownership of intermediate holding companies and activities incidental thereto. Any information filed with, or furnished to, the SEC within the time periods specified in this Section 4.02 shall be deemed to have been made available as required by this Section 4.02, and to the extent such filings comply with the rules and regulations of the SEC regarding such filings, they will be deemed to comply with the requirements of this Section 4.02. If the Company or a direct or indirect parent of the Company files with or furnishes to the Commission (a) an Annual Report on Form 10-K with respect to a fiscal year that complies in all material respects with the rules and regulations of the SEC regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(i) with respect to the relevant fiscal year; (b) a quarterly report on Form 10-Q with respect to a fiscal quarter that complies in all material respects with the rules and regulations of the Commission regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(ii) with respect to the relevant fiscal quarter; and (c) a current report on Form 8-K with respect to any of the events described in Section 4.02(a)(iii) that complies in all material respects with the rules and regulations of the Commission regarding such filing, then such filing shall be deemed to satisfy the requirements of Section 4.02(a)(iii) with respect to such event; *provided*, in each case of clause (a) through (c), that (x) such filings include such disclosure as is reasonably necessary to describe any material differences between the consolidated financial information of such direct or indirect parent and the consolidated financial information of the Company and (y) such

direct or indirect parent does not conduct, transact or otherwise engage in any material business or operations other than the business and operations conducted through the Company or its ownership of intermediate holding companies and activities incidental thereto.

(e) The subsequent filing or making available of any materials or conference call required by this Section 4.02 shall be deemed automatically to cure any Default or Event of Default resulting from the failure to file or make available such materials or conference call within the required time frame.

(f) Delivery of the reports required by this Section 4.02 to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

(g) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

Section 4.03 Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ended December 31, 2013) an Officers' Certificate, stating that, in the course of the performance by the signers thereof of their duties as Officers of the Company, they would normally have knowledge of any default by the Company in the performance of its obligations contained in this Indenture, a review of their activities during the preceding fiscal year has been made under the supervision of the signers with a view to determining whether the Company has kept, observed, performed and fulfilled each condition and covenant under this Indenture and stating whether or not, to the best knowledge of the signers thereof, the Company, as of the date of such Officers' Certificate, is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and if the Company shall be in default, specifying all such Defaults or Events of Defaults, the nature and status thereof of which they may have knowledge and what action the Company is taking or proposes to take with respect thereto.

The Company shall deliver to the Trustee promptly (and in any event within 10 Business Days) after an Officer becomes aware of the occurrence thereof, written notice of any Event of Default, Default or any event which with the giving of notice or the lapse of time, or both, would become an Event of Default in the form of an Officers' Certificate specifying

such Default or Event of Default, its status and what action the Company is taking or proposes to take with respect thereto.

Section 4.04 Maintenance of Office or Agency. The Company will maintain an office or agency of the Trustee, Registrar and Paying Agent where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer, exchange, purchase or redemption and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Corporate Trust Office of the Trustee shall initially be such office or agency for all of the aforesaid purposes. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the office of the Trustee). If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 12.02.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations.

Section 4.05 Delivery of Certain Information. At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act, upon the request of a Holder or any beneficial owner of Securities, the Company will promptly furnish or cause to be furnished Rule 144A Information (as defined below) to such Holder or any beneficial owner of Securities, or to a prospective purchaser of any such security designated by any such holder, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A under the Securities Act in connection with the resale of any such security. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act or any successor provisions. Whether a Person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

Section 4.06 Existence. The Company will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence in accordance with their respective organizational documents and the rights, licenses, permits, privileges and franchises material to the conduct of its business, except for such rights, licenses, permits, privileges and franchises the loss of which, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, conveyance, transfer or lease permitted under Article V or any Asset Sale or Change of Control not prohibited by the terms of this Indenture; and provided further that this Section 4.06 shall not prohibit ~~any transaction~~the transactions (or the effect thereof) contemplated in the Plan of Reorganization.

Section 4.07 Maintenance of Properties. The Company will, and will cause each of its Subsidiaries to, keep and maintain, in accordance with normal mining practice, all property material to the conduct of its business in good working order and condition (ordinary wear

and tear, casualty and condemnation excepted), except in any case where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 4.08 Security Interests.

~~Section 4.08 After-Acquired Property.~~(a) Subject to the terms, conditions and provisions set forth in the Collateral Documents, the Company and the Guarantors agree that all Senior Priority After-Acquired Property shall be Collateral under this Indenture and all appropriate Collateral Documents and shall take all necessary action, including the execution and delivery of such mortgages, deeds of trust, security instruments, supplements and joinders to security instruments, financing statements, certificates and opinions of counsel (in each case, in accordance with the applicable terms and provisions of this Indenture and the Collateral Documents), so that such Senior Priority After-Acquired Property is subject to the Lien of appropriate Collateral Documents and such Lien is perfected and has priority over other Liens in each case to the extent required by and in accordance with the applicable terms and provisions of this Indenture and the applicable Collateral Documents~~.~~; provided that notwithstanding the generality of the foregoing, the creation and perfection of security interests of any Collateral that constitutes Real Property shall be governed by Section 4.08(c) and Section 4.08(d); and *provided further* that such mortgages, deeds of trust, security instruments, supplements and joinders to security instruments, financing statements, certificates and opinions of counsel need not be delivered prior to when the corresponding documents are delivered in respect of the Senior-Lien Obligations.

(b) Neither the Company nor any of its Restricted Subsidiaries will take or omit to take any action which would adversely affect or impair in any material respect the Parity Liens in favor of the Collateral Trustee with respect to the Collateral, except as otherwise permitted or required by the Collateral Documents, the Junior Lien Intercreditor Agreement or this Indenture. The Company shall, and shall cause each Guarantor to, at its sole cost and expense, execute and deliver all such agreements and instruments as the Collateral Trustee or the Trustee shall reasonably request to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Collateral Documents. Subject to the terms of the Collateral Documents and the Junior Lien Intercreditor Agreement, the Company shall, and shall cause each Guarantor to, at its sole cost and expense, file (or cause to be filed) any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Parity Liens created by the Collateral Documents at such times and at such places as the Collateral Trustee or the Trustee may reasonably request in accordance with the Collateral Documents and to the extent permitted by applicable law.

(c) Notwithstanding anything to the contrary contained herein, subject to Section 11.08, with respect to any Material Owned Real Property owned by the Company or a Guarantor on the Issue Date and with respect to any Material Owned Real Property acquired by the Company or a Guarantor after the Issue Date (within 90 days of (i) the Issue Date or (ii) the date of the acquisition thereof, as applicable, or

such longer period of time as is given by the ABL Agent and the Term Agent for delivery of the corresponding mortgages in respect of the Senior-Lien Obligations):

(i) The Company shall deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the owned real property purported to be covered thereby; and

(ii) The Company shall deliver to the Collateral Trustee upon the request of the Collateral Trustee in its reasonable discretion an opinion(s) of counsel of the Company confirming that the Mortgages create a Lien on the Material Owned Real Property purported to be covered thereby and otherwise covering the enforceability of the relevant Mortgages, which shall be from local counsel in each state where such Material Owned Real Property is located;

provided, however, that the Collateral Trustee shall have the right to extend any deadlines relating to the delivery of the foregoing documentation in its discretion, without the further consent of the Holders.

(d) Notwithstanding anything to the contrary contained herein, subject to Section 11.08, with respect to any Material Leased Real Property leased by the Company or a Guarantor on the Issue Date and with respect to any Material Leased Real Property acquired by the Company or a Guarantor after the Issue Date (within 120 days of (i) the Issue Date or (ii) the date of the acquisition thereof, as applicable, or such longer period of time as is given by the ABL Agent and the Term Agent for delivery of the corresponding leasehold mortgages in respect of the Senior-Lien Obligations):

(i) With respect to Material Leased Real Property where the terms of the lease of such Material Leased Real Property (or applicable state law, if such lease is silent on the issue) do not prohibit a mortgage thereof, the Company shall deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the leased real property purported to be covered thereby;

(ii) With respect to Material Leased Real Property where the terms of the lease of such Material Leased Real Property (or applicable state law, if such lease is silent on the issue) prohibit a mortgage thereof, the Company or the applicable Guarantor shall use commercially reasonable efforts to deliver to the Collateral Trustee, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Guarantor, together with

evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the leased real property purported to be covered thereby; *provided*, that the Company and the Guarantors shall use commercially reasonable efforts to deliver estoppel and consent agreements executed by the lessors of such Material Leased Real Property; *provided*, *further*, that the Company and the Guarantors shall (x) deliver the initial requested form of consent to the lessor within 30 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or the acquisition of such Material Leased Real Property and (y) initiate communications with the lessors on the status of all such consents within 60 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or the acquisition of such Material Leased Real Property; *provided*, *however*, that if any consent has not been executed and returned to the Collateral Trustee in a form reasonably satisfactory to the Collateral Trustee within 90 days (or such longer period as the ABL Agent and the Term Agent may agree in respect of the Senior-Lien Obligations) after the Issue Date or such acquisition, then the Collateral Trustee shall determine in its reasonable discretion whether the Company or such Guarantor has satisfied its obligations hereunder or whether the Company's or such Guarantor's obligations hereunder shall be extended for an additional period of time; and

(iii) The Company shall deliver to the Collateral Trustee upon the request of the Collateral Trustee in its reasonable discretion an opinion(s) of counsel of the Company confirming that the Mortgages create a Lien on the Material Leased Real Property purported to be covered thereby and otherwise covering the enforceability of the relevant Mortgages, which shall be from local counsel in each state where such Material Leased Real Property is located;

provided, however, that the Collateral Trustee shall have the right to extend any deadlines relating to the delivery of the foregoing documentation in its discretion, without the further consent of the Holders.

Section 4.09 Future Subsidiary Guarantors. The Company shall cause each Domestic Subsidiary that (x) guarantees any Indebtedness of the Company or any of its Restricted Subsidiaries under any Credit Agreement or (y) if no Senior-Lien Obligations are then outstanding, otherwise guarantees any Indebtedness of the Company in a principal amount greater than $5.0 million to (a) promptly execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit ~~B~~E pursuant to which such Domestic Subsidiary shall ~~guarantee~~Guarantee the Securities Obligations on the same secured basis, (b) promptly execute and deliver to the Trustee and the Collateral Trustee a joinder to the Junior Lien Intercreditor ~~Agreements~~Agreement and (c) within 45 days (or such longer period(s) as provided for in Section 4.08(c) and/or Section 4.08(d)) of entering into such Guarantee, execute and deliver to the Collateral Trustee such Collateral Documents or supplements or joinders thereto as are necessary for such Domestic Subsidiary to become a grantor or

mortgagor under all applicable Collateral Documents and take all actions so that the Lien of the Collateral Documents on the property and assets of such Domestic Subsidiary are perfected and have priority over other Liens to the extent required by, and in accordance with, the applicable terms and provisions of this Indenture and the Collateral Documents.

Section 4.10 Incurrence of Indebtedness or Preferred Stock.

(a) The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to Incur any Indebtedness, including Acquired Indebtedness, or permit any Restricted Subsidiary to Incur Preferred Stock, except that:

(i) the Company or any Restricted Subsidiary may Incur Indebtedness, including Acquired Indebtedness, and

(ii) any Restricted Subsidiary may Incur Preferred Stock,

if, at the time of and immediately after giving effect to the Incurrence thereof and the receipt and application of the proceeds therefrom, the Fixed Charge Coverage Ratio is not less than 2.0:1 (the "Fixed Charge Coverage Ratio Test"), *provided* that Indebtedness or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors may not exceed more than $[10,000,000] in the aggregate at any time;

(b) Notwithstanding the provisions of Section 4.10(a) hereof, the Company and, to the extent provided below, any Restricted Subsidiary may Incur the following ("Permitted Indebtedness"):

(i) Indebtedness of the Company and the Guarantors pursuant to the Term Facility; *provided* that the aggregate principal amount of such Indebtedness at any time outstanding does not exceed (i) $250,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced, refunded, renewed or extended) less (iii) any amount of such Indebtedness permanently repaid as provided under Section 4.13 hereof;

(ii) Indebtedness of the Company and the Guarantors pursuant to the ABL Credit Agreement; *provided* that the aggregate principal amount of such Indebtedness at any time outstanding does not exceed $[ ]125,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced,

refunded, renewed or extended), less (iii) any amount of such Indebtedness permanently repaid that effects a corresponding permanent commitment reduction thereunder as provided under Section 4.13 hereof;

(iii) Indebtedness under the Letter of Credit Facility; *provided* that the aggregate amount of such Indebtedness at any time outstanding shall not exceed $201,000,000, plus (ii) in the case of any refinancing, replacement, refunding, renewal or extension of any Indebtedness permitted under this clause or any portion thereof, the aggregate amount of fees, underwriting discounts, premiums, and other costs and expenses Incurred in connection with such refinancing, replacement, refunding, renewal or extension (including amounts necessary to pay accrued interest on the Indebtedness so refinanced, replaced, refunded, renewed or extended), less (iii) any amount of such Indebtedness permanently repaid as provided under Section 4.13 hereof;

(iv) Indebtedness of the Company pursuant to the Securities (other than Additional Securities) and any PIK Securities issued from time to time as payment of PIK Interest on the Securities and any increase in the principal amount of Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee (including Additional Securities) and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the Securities and any increase in the principal amount of Securities as a result of the payment of PIK Interest;

(v) (i) Indebtedness of the Company or any Restricted Subsidiary owed to the Company or any Restricted Subsidiary so long as such Indebtedness continues to be owed to the Company or a Restricted Subsidiary and which, if the obligor is the Company or a Guarantor and if the Indebtedness is owed to a non-Guarantor, is subordinated in right of payment to the Securities and (ii) Preferred Stock of a Restricted Subsidiary so long as such Preferred Stock continues to be held by the Company or a Guarantor; *provided* that, at such time as any such outstanding Indebtedness or Preferred Stock ceases to be owed to or held by, as the case may be, the Company or a Restricted Subsidiary (or Guarantor, in the case of Preferred Stock), such Indebtedness or Preferred Stock shall be deemed to be Incurred and not permitted by this Section 4.10(b)(v);

~~(vi) [Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary equal to 100% of the net cash proceeds received by the Company since immediately after the Issue Date from the issue or sale of Equity Interests of the Company or cash contributed to the capital of the Company (in each case, other than proceeds of Disqualified Stock or sales of Equity Interests to the Company or any of its Subsidiaries) as determined in accordance with clause (C)(2) of Section 4.11(a) hereof to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make~~

~~other Investments, payments or exchanges pursuant to Section 4.11(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1), (2) and (3) of the definition thereof);]~~

(~~vii~~vi) Indebtedness ("Permitted Refinancing Indebtedness") constituting an extension or renewal of, replacement of, or substitution for, or issued in exchange for, or the net proceeds of which are used to repay, redeem, repurchase, replace, refinance or refund, including by way of defeasance (all of the above, for purposes of this clause, "refinance") then outstanding Indebtedness Incurred under Section 4.10(a) hereof or clauses ~~[~~(iv), (vi), (~~vii~~) (~~xi~~x), (~~xv~~xiii), (~~xvi~~) or (~~xviii~~xiv)~~]~~ of this Section 4.10(b) in an amount not to exceed the principal amount of the Indebtedness so refinanced, plus applicable premiums, fees and expenses incurred in connection with the repayment of such Indebtedness and the Incurrence of the Permitted Refinancing Indebtedness; *provided* that:

(A) in case the Securities are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Securities, the new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is made *pari passu* with, or subordinated in right of payment to, the remaining Securities;

(B) in case the Indebtedness to be refinanced is subordinated in right of payment to the Securities, the new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is made subordinate in right of payment to the Securities at least to the extent that the Indebtedness to be refinanced is subordinated to the Securities;

(C) the terms relating to maturity and amortization are no less favorable in any material respect to the Holders of the Securities than the terms of any agreement or instrument governing the Indebtedness being refinanced; and

(D) in no event may Indebtedness of the Company or any Guarantor be refinanced pursuant to this Section 4.10(b)(vi) by means of any Indebtedness of any Restricted Subsidiary that is not a Guarantor;

(~~viii~~vii) Hedging Agreements of the Company or any Restricted Subsidiary entered into in the ordinary course of business and not for speculation ~~and [~~, ABL Bank ~~Group~~Product Obligations and LC/Term Cash Management Obligations~~]~~;

(~~ix~~viii) Indebtedness of the Company or any Restricted Subsidiary in the form of bank guarantees, letters of credit and bankers' acceptances (except to the extent issued under the ABL Credit Agreement or the ~~Term/~~LC/Term Credit Agreement) and bid, performance, reclamation, statutory obligation, surety,

appeal and performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business;

(~~x~~ix) Indebtedness arising from agreements of the Company or any Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or any Subsidiary;

(~~xi~~x) Existing Indebtedness;

(~~xii~~xi) Indebtedness of the Company or any Guarantor consisting of guarantees of Indebtedness of the Company or any Guarantor otherwise permitted under this Section 4.10; *provided* that if the Indebtedness guaranteed is subordinate to the Securities, then such guarantee shall be subordinate to the Securities or the relevant Guarantee of the Securities, as the case may be, to the same extent;

(~~xiii~~xii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds or Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in connection with deposit accounts, in each case in the ordinary course of business;

~~(xiv) any Permitted Receivables Financing in an aggregate principal amount at any time outstanding not to exceed $[175,000,000];~~

(~~xv~~xiii) Indebtedness of the Company or any Restricted Subsidiary Incurred to finance the acquisition, construction, development or improvement of any assets, including Capital Leases and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets before the acquisition thereof; *provided* that the aggregate principal amount at any time outstanding of any Indebtedness Incurred under this Section 4.10(b)(~~xv~~xiii), together with any Permitted Refinancing Indebtedness Incurred in respect thereof under clause (~~vii~~vi) of this Section 4.10(b), may not exceed the greater of (x) $~~[~~25,000,000 or (y) ~~[~~1.25% of Consolidated Tangible Assets;

~~(xvi) [(x) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary, incurred or issued to finance an acquisition or (y) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by the Company or any Restricted Subsidiary or merged into the Company or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that in the case of (x) and (y) after giving effect to such acquisition or merger, either (a) the Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant~~

~~to the Fixed Charge Coverage Ratio Test set forth in Section 4.10(a) hereof, or (b) the Fixed Charge Coverage Ratio Test of the Company and the Restricted Subsidiaries is equal to or greater than immediately prior to such acquisition or merger;]~~

~~(xvii) [Indebtedness of the Company or any Restricted Subsidiary Incurred on or after the Issue Date not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed the greater of (x) $[215,000,000] and (y) [6.0]% of Consolidated Tangible Assets;]~~

(~~xviii~~xiv) Indebtedness of the Company Incurred pursuant to Additional Securities issued in accordance with a management compensation plan or program (the "Management Incentive Securities") and any PIK Securities issued from time to time as payment of PIK Interest on such Management Incentive Securities and any increase in the principal amount of Management Incentive Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the Management Incentive Securities and any increase in the principal amount of Management Incentive Securities as a result of the payment of PIK Interest Incurred on or after the Issue Date; *provided* that the aggregate principal amount of Management Incentive Securities issued on or after the Issue Date shall not exceed $25.0 million;

(~~xix~~xv)Indebtedness of Foreign Restricted Subsidiaries Incurred on or after the Issue Date in an aggregate principal amount not to exceed $~~[~~10,000,000~~]~~ outstanding at any time;

(~~xx~~xvi)Indebtedness of the Company or any Restricted Subsidiary pursuant to the issuance of Additional Securities solely in connection with a Specified Cure and any PIK Securities issued from time to time as payment of PIK Interest on such Additional Securities and any increase in the principal amount of such Additional Securities as a result of the payment of PIK Interest and Indebtedness of any Guarantor pursuant to its Guarantee and the Guarantee related to any PIK Securities issued from time to time as payment of PIK Interest on the such Additional Securities and any increase in the principal amount of such Additional Securities as a result of the payment of PIK Interest Incurred on or after the Issue Date; *provided* that the Indebtedness Incurred under this Section 4.10(b)(~~xx~~xvi) shall not exceed $~~[~~~~]~~75,000,000 outstanding at any time;

(~~xxi~~xvii) Indebtedness of the Company or any Restricted Subsidiary that is ~~secured by a lien that is junior to the Lien securing the Securities~~ Junior Lien Debt or that is unsecured Subordinated Indebtedness of the Company or any Restricted Subsidiary~~,~~ (which shall be subordinated to the Securities and any Parity Lien Debt on terms substantially similar to the terms on which such Subordinated Indebtedness shall be subordinated to the Priority Lien Debt),

which together with any other Indebtedness Incurred under this Section 4.10(b)(~~xxi~~xvii) shall not to exceed $[~~_____~~]75,000,000 outstanding at any time; ~~and~~

(xviii) Indebtedness of the Company or any Restricted Subsidiary Incurred after the Issue Date not otherwise permitted hereunder in an aggregate principal amount at any time outstanding not to exceed the greater of (x) $15,000,000 and (y) 1.0% of Consolidated Tangible Assets;

(~~xxii~~xix) Indebtedness of the Company or any Restricted Subsidiary consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply or other arrangements.

(c) Notwithstanding any other provision of this Section 4.10, for the purposes of determining compliance with this Section 4.10, increases in Indebtedness solely due to fluctuations in the exchange rates of currencies shall not be deemed to exceed the maximum amount that the Company or a Restricted Subsidiary may Incur under this Section 4.10. For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

Furthermore, for the purposes of determining compliance with this Section 4.10, in the event that an item of Indebtedness or Preferred Stock meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (i) through (~~xx~~xix) of Section 4.10(b) hereof, or is entitled to be incurred pursuant to Section 4.10(a) hereof, the Company shall, in its sole discretion, classify such item in any manner that complies with this Section 4.10 and such Indebtedness or Preferred Stock shall be treated as having been incurred pursuant to the clauses of Permitted Indebtedness or paragraph (a) hereof, as the case may be, designated by the Company, and from time to time may change the classification of an item of Indebtedness (or any portion thereof) to any other type of Indebtedness permitted under this Section 4.10 at any time, including pursuant to clause (a) hereof; *provided* that Indebtedness under the Term ~~Credit Agreement and~~Facility, the ABL Credit Agreement and the Letter of Credit Facility outstanding on the Issue Date shall be deemed at all times to be incurred under clause (i), (ii) and (iii), respectively, of Section 4.10(b) hereof.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness or Preferred Stock of the same class shall not be deemed to be an Incurrence of Indebtedness or Preferred Stock for purposes of this Section 4.10 but shall be included in subsequent calculations of the amount of outstanding Indebtedness for purposes of Incurring future Indebtedness; *provided* that such accrual, accretion, amortization or payment is included in the calculation of Fixed Charges.

Neither the Company nor any Guarantor shall Incur any Indebtedness that is subordinated in right of payment to other Indebtedness of the Company or the Guarantor unless such Indebtedness is also subordinated in right of payment to the Securities or the relevant Guarantee on substantially identical terms.

Section 4.11 Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly (the payments and other actions described in the following clauses being collectively "Restricted Payments"):

(i) declare or pay any dividend or make any distribution on its Equity Interests (other than dividends or distributions paid in the Company's Qualified Equity Interests) held by Persons other than the Company or any of its Restricted Subsidiaries;

(ii) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Company held by Persons other than the Company or any of its Restricted Subsidiaries that is also a Guarantor;

(iii) repay, redeem, repurchase, defease or otherwise acquire or retire for value, or make any payment on or with respect to, any Subordinated Indebtedness (other than a payment of interest or principal at Stated Maturity thereof or the purchase, repurchase or other acquisition of any Subordinated Indebtedness purchased in anticipation of satisfying a scheduled maturity sinking fund or amortization or other installment obligation, in each case due within one year of the date of acquisition); or

(iv) make any Investment other than a Permitted Investment;

unless, at the time of, and after giving effect to, the proposed Restricted Payment:

(A) no Default has occurred and is continuing,

(B) the Company could Incur at least $1.00 of Indebtedness under the Fixed Charge Coverage Ratio Test, and

(C) the aggregate amount expended for all Restricted Payments made on or after the Issue Date would not, subject to Section 4.11(c), exceed the sum of:

(1) 50% of the aggregate amount of the Consolidated Net Income (or, if the Consolidated Net Income is a loss, minus 100% of the amount of the loss) accrued on a cumulative basis during the period, taken as one accounting period, beginning on the first day of the fiscal quarter in which the Issue Date occurs and ending on the last day of the Company's most recently completed fiscal quarter for which internal financial statements are available, plus

(2) subject to Section 4.11(c), the aggregate net cash proceeds, including cash proceeds and the Fair Market Value of property other than cash, received by the Company (other than from a Subsidiary) after the Issue Date:

(x) from the issuance and sale of its Qualified Equity Interests, including by way of issuance of its Disqualified Equity Interests or Indebtedness to the extent since converted into Qualified Equity Interests of the Company, or

(y) as a contribution to its common equity, plus

(3) an amount equal to the sum, for all Unrestricted Subsidiaries, of the following:

(x) the cash return, after the Issue Date, on Investments in an Unrestricted Subsidiary made after the Issue Date pursuant to this Section 4.11(a) as a result of any sale for cash, repayment, redemption, liquidating distribution or other cash realization (not included in Consolidated Net Income), plus

(y) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the assets less liabilities of an Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary,

not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments made after the Issue Date by the Company and its Restricted Subsidiaries in such Unrestricted Subsidiary pursuant to this Section 4.11(a), plus

(4) the cash return, after the Issue Date, on any other Investment made after the Issue Date pursuant to this Section 4.11(a), as a result of any sale for cash, repayment, return, redemption, liquidating distribution or other cash realization (not

included in Consolidated Net Income), not to exceed the amount of such Investment so made, plus

(5) any amount which previously qualified as a Restricted Payment made under Section 4.11(a) on account of any guarantee entered into by the Company or any Restricted Subsidiary; *provided* that such guarantee has not been called upon and the obligation arising under such guarantee no longer exists.

The amount of any Restricted Payment, if other than in cash, shall be the Fair Market Value of the assets or securities proposed to be transferred or issued to or by the Company or such Restricted Subsidiary, as the case may be.

(b) The provisions of Section 4.11(a) hereof shall not prohibit:

(i) the payment of any dividend or distribution within 60 days after the date of declaration thereof if, at the date of declaration, such payment would comply with Section 4.11(a) hereof;

(ii) dividends or distributions by a Restricted Subsidiary payable, on a pro rata basis or on a basis more favorable to the Company, to all Holders of any class of Equity Interests of such Restricted Subsidiary a majority of which is held, directly or indirectly through Restricted Subsidiaries, by the Company;

(iii) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of Subordinated Indebtedness of the Company or a Guarantor with the proceeds of, or in exchange for, Permitted Refinancing Indebtedness;

(iv) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company in exchange for, or out of the proceeds of a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company or of a contribution to the common equity of the Company;

(v) the repayment, redemption, repurchase, defeasance or other acquisition or retirement of Subordinated Indebtedness of the Company or any Guarantor in exchange for, or out of the proceeds of, a cash or non-cash contribution to the capital of the Company or a substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of, Qualified Equity Interests of the Company;

(vi) any Investment acquired as a capital contribution to the Company, or made in exchange for, or out of the net cash proceeds of, a

substantially concurrent offering (with any offering within 45 days deemed as substantially concurrent) of Qualified Equity Interests of the Company;

(vii) amounts paid for the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company or any of its Restricted Subsidiaries held by current or former officers, directors or employees (or their estates or beneficiaries under their estates or the applicable agreements or employee benefit plans), of the Company or any of its Restricted Subsidiaries pursuant to any agreement or employee benefit plan under which the Equity Interests were issued; *provided* that the aggregate consideration paid therefor (other than in the form of Equity Interests of the Company) in any twelve-month period after the Issue Date does not exceed an aggregate amount of $~~[~~5,000,000~~]~~ (with unused amounts in any twelve-month period being permitted to carry over for the two succeeding twelve-month periods, so long as the aggregate consideration paid does not exceed an aggregate amount of $~~[~~10,000,000~~]~~ in any twelve-month period);

(viii) the repayment, redemption, repurchase, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness or Disqualified Stock of the Company or a Guarantor at a purchase price not greater than 101% of the principal amount thereof or liquidation preference in the event of (x) a change of control pursuant to a provision no more favorable to the holders thereof than Section 4.15 hereof or (y) an asset sale pursuant to a provision no more favorable to the holders thereof than hereof, provided that, in each case, prior to the repurchase the Company has made a Change of Control Repurchase Offer or Asset Sale Offer, to the extent required by Section 4.15 or Section 4.13 hereof, as the case may be, and repurchased all Securities issued hereunder that were validly tendered for payment in connection with such offer to purchase;

(ix) Restricted Payments not otherwise permitted hereby in an aggregate amount not to exceed $~~[~~ ~~]~~5,000,000; *provided* that, in the case of clauses (vi), (vii), (viii) and (ix), no Default has occurred and is continuing or would occur as a result thereof;

(x) the repurchase of Management Incentive Securities deemed to occur upon the withholding or repurchase of a portion of Management Incentive Securities (including such Securities issued as capitalized interest payments) issued under a management compensation plan or program of the Company and its Subsidiaries to cover tax obligations of such persons in respect of such issuance or vesting of rights thereunder and accrual of interest thereon;

(xi) the delivery of shares of Class A Common Stock upon exercise of the Rights Offering Warrants in accordance with their terms (including any net share exercises and any tax withholding in connection therewith) and ~~any~~to effectuate repurchases of shares of Class A Common Stock deemed to occur upon the withholding of a portion of such shares of Class A Common Stock

issued upon the exercise of the Management Rights Offering Warrants issued under a management compensation ~~plan or~~ program of the Company and its Subsidiaries to cover tax obligations of such persons in respect of ~~the~~ exercise of such warrants in accordance with their terms; and

(xii) Restricted Payments in connection with the transactions contemplated by the Plan of Reorganization or as set forth in the Plan Confirmation Order.

(c) Proceeds of the issuance of Qualified Equity Interests shall be included under clause (C) of Section 4.11(a) hereof only to the extent they are not applied as described in clause (iv), (v) or (vi) of Section 4.11(b) hereof. Restricted Payments permitted pursuant to clauses (ii), (iii), (iv), (v), (vi) and (~~x~~xii) of Section 4.11(b) hereof shall not be included in making the calculations under clause (C) of Section 4.11(a) hereof.

(d) For purposes of determining compliance with this Section 4.11, in the event that a Restricted Payment permitted pursuant to this Section 4.11 or a Permitted Investment meets the criteria of more than one of the categories of Restricted Payment described in clauses (i) through (xii) of Section 4.11(b) hereof or one or more clauses of the definition of "Permitted Investments," the Company shall be permitted to classify such Restricted Payment or Permitted Investment on the date it is made, or later reclassify all or a portion of such Restricted Payment or Permitted Investment, in any manner that complies with this Section 4.11, and such Restricted Payment or Permitted Investment shall be treated as having been made pursuant to only one of such clauses of this Section 4.11 or of the definition of "Permitted Investments." The amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Section 4.12 Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) Except as provided in Section 4.12(b) hereof, the Company shall not, and shall not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on its Equity Interests to the Company or any Restricted Subsidiary;

(ii) pay any Indebtedness owed to the Company or any other Restricted Subsidiary;

(iii) make loans or advances to the Company or any other Restricted Subsidiary; or

(iv) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The provisions of Section 4.12(a) hereof shall not apply to any encumbrances or restrictions:

(i) existing on the Issue Date in the ABL Credit Agreement, the ~~Term/~~LC/Term Credit Agreement, the Indenture or the Existing Indebtedness or any other agreements in effect on the Issue Date, and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing; *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, in the good faith judgment of the Company, no less favorable in any material respect (taken as a whole) to the Holders of the Securities than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

(ii) existing pursuant to the Indenture, the Securities or the Guarantees;

(iii) existing under or by reason of applicable law, rule, regulation or order;

(iv) existing under any agreements or other instruments of, or with respect to:

(A) any Person, or the property or assets of any Person, at the time the Person is acquired by the Company or any Restricted Subsidiary; or

(B) any Unrestricted Subsidiary at the time it is designated or is deemed to become a Restricted Subsidiary;

which encumbrances or restrictions referred to in clause (iv) of this Section 4.12(b): (i) are not applicable to any other Person or the property or assets of any other Person and (ii) were not put in place in anticipation of such event and any amendments, modifications, restatements, extensions, renewals, replacements or refinancings of any of the foregoing, *provided* that the encumbrances and restrictions in the amendment, modification, restatement, extension, renewal, replacement or refinancing are, taken as a whole, in the good faith judgment of the Company, no less favorable in any material respect to the Holders of the Securities than the encumbrances or restrictions being amended, modified, restated, extended, renewed, replaced or refinanced;

(v) of the type described in clause (iv) of Section 4.12(a) hereof arising or agreed to (i) in the ordinary course of business that restrict in a customary manner the subletting, assignment or transfer of any property or asset

that is subject to a lease, license, conveyance or similar contract, including with respect to intellectual property, (ii) that restrict in a customary manner, pursuant to provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements, the transfer of ownership interests in, or assets of, such partnership, limited liability company, joint venture or similar Person or (iii) by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of, the Company or any Restricted Subsidiary permitted pursuant to the terms hereof;

(vi) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of the Capital Stock of, or property and assets of, the Restricted Subsidiary pending closing of such sale or disposition that is permitted pursuant to the terms hereof;

~~(vii) [consisting of customary restrictions pursuant to any Permitted Receivables Financing;]~~

(~~viii~~vii) existing pursuant to Permitted Refinancing Indebtedness; *provided* that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are, taken as a whole, no less favorable in any material respect to the Holders of the Securities than those contained in the agreements governing the Indebtedness being refinanced;

(~~ix~~viii) consisting of restrictions on cash or other deposits or net worth imposed by customers, suppliers or required by insurance surety bonding companies, in each case, in the ordinary course of business;

(~~x~~ix) existing pursuant to purchase money obligations for property acquired in the ordinary course of business and Capital Leases or operating leases that impose encumbrances or restrictions discussed in clause (iv) of Section 4.12(a) hereof on the property so acquired or covered thereby;

(~~xi~~x) existing pursuant to any Indebtedness Incurred by, or other agreement of, a Foreign Restricted Subsidiary, which restrictions are customary for a financing or agreement of such type, and which are otherwise permitted under clause (~~xix~~xv) of the definition of "Permitted Indebtedness" in Section 4.10(b) hereof;

(~~xii~~xi) existing pursuant to customary provisions in joint venture, operating or similar agreements, asset sale agreements and stock sale agreements required in connection with the entering into of such transaction; or

(~~xiii~~xii) existing pursuant to any agreement or instrument relating to any Indebtedness permitted to be Incurred subsequent to the Issue Date under Section 4.10 hereof if the encumbrance and restrictions contained in any such agreement or instrument are, taken as a whole, no less favorable in any material

respect (taken as a whole) to the Holders of the Securities than the encumbrances and restrictions contained in the ABL Credit Agreement and the ~~Term/~~LC/Term Credit Agreement in effect as of the Issue Date (as determined in good faith by the Company).

Section 4.13 Asset Sales.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, consummate any Asset Sale unless the following conditions are met:

(i) The Asset Sale is for at least Fair Market Value.

(ii) At least 75% of the consideration received by the Company or its Restricted Subsidiaries consists of cash or Cash Equivalents. For purposes of this clause (ii), each of the following shall be considered cash or Cash Equivalents:

(A) the assumption by the purchaser of Indebtedness or other obligations or liabilities (as shown on the Company's most recent balance sheet or in the notes thereto) (other than Subordinated Indebtedness or other obligations or liabilities subordinated in right of payment to the Securities) of the Company or a Restricted Subsidiary pursuant to operation of law or a customary novation agreement,

(B) Additional Assets,

(C) instruments, notes, securities or other obligations received by the Company or such Restricted Subsidiary from the purchaser that are promptly, but in any event within 90 days of the closing, converted by the Company or such Restricted Subsidiary to cash or Cash Equivalents, to the extent of the cash or Cash Equivalents actually so received, and

(D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in the Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (D) that is at that time outstanding, not to exceed the greater of (x) $~~[~~]25,000,000 and (y) ~~[——]~~1.0% of the Company's Consolidated Tangible Assets at the time of receipt of such outstanding Designated Non-cash Consideration (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

(iii) Within ~~180~~365 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Net Cash Proceeds may be used

(A) to permanently repay ~~[(i)]~~Indebtedness of the Company or a Guarantor constituting Priority Lien Obligations (and, if the Indebtedness repaid is revolving credit Indebtedness or Indebtedness in respect of letters of credit, to correspondingly reduce commitments with respect thereto or otherwise cash collateral any such Priority Lien Obligations); *provided* that the Lien on the assets that are the subject of the Asset Sale is senior in priority to the Lien securing the Securities Obligations pursuant to the terms of the ~~Senior Priority~~Junior Lien Intercreditor Agreement ~~[(B) (ii) any Indebtedness of a Restricted Subsidiary that is not a Guarantor owing to a Person other than the Company or a Restricted Subsidiary, (C) Securities Obligations or (D) other Parity Lien Debt (provided that the Company will equally and ratably reduce Securities Obligations through open-market purchases (provided that such purchases are at or above 100% of the principal amount thereof) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all Holders to purchase at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, the pro rata principal amount of Securities), in each case other than Indebtedness owed to the Company or an Affiliate of the Company], or~~, or

(B) to acquire Additional Assets or to make capital expenditures in a Permitted Business of the Company or one or more Restricted Subsidiaries that is a Guarantor.

~~A binding commitment to make an acquisition referred to in clause (B) of this Section 4.13(a)(iii) shall be treated as a permitted application of the Net Cash Proceeds from the date of such commitment; *provided* that (x) such investment is consummated within 180 days of the end of the 180 day period referred to in the first sentence of this Section 4.13(a)(iii), and (y) if such acquisition is not consummated within the period set forth in subclause (x) or such binding commitment is terminated, the Net Cash Proceeds not so applied shall be deemed to be Excess Proceeds (as defined below).~~ For the avoidance of doubt, pending application thereof in accordance with this Section 4.13(a), the Company or any Restricted Subsidiary may use any Net Cash Proceeds from an Asset Sale for general corporate purposes (including a reduction in borrowings under any revolving credit facility) prior to the end of the ~~180~~365-day period referred to in the first sentence of this Section 4.13(a)(iii). In addition, the Company or the applicable Restricted Subsidiary, as the case may be, will take all necessary action to promptly grant to the Collateral Trustee a perfected security interest, subject to any Permitted Liens, on such property or assets acquired or constructed with Net Cash Proceeds of any Asset Sale on the terms set forth in, and to the extent required by, this Indenture and the Collateral Documents.

(iv) The Net Cash Proceeds of an Asset Sale not applied pursuant to clause (iii) of this Section 4.13(a) within ~~180~~365 days of the Asset Sale constitute "Excess Proceeds". Excess Proceeds of less than $~~[~~25,000,000~~]~~ shall be carried forward and accumulated. ~~When~~Subject to the Junior Lien

Intercreditor Agreement, the aggregate amount of the accumulated Excess Proceeds equals or exceeds $[25,000,000], the Company shall, within 30 days, make an offer to all Holders of the Securities (an "Asset Sale Offer") to purchase Securities having a principal amount equal to

(A) accumulated Excess Proceeds, multiplied by

(B) [a fraction (x) the numerator of which is equal to the outstanding aggregate principal amount of the Securities and (y) the denominator of which is equal to the outstanding aggregate principal amount of the Securities and all other Parity Lien Debt similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale, rounded down to the nearest $1,0001. The purchase price for the Securities shall be 100% of thein cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) shall be as set forth in Schedule A hereto, *plus* accrued and unpaid interest, if any, to the date of purchase. If the repurchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant interest payment date). If the Asset Sale Offer to Purchase is for less than all of the outstanding Securities and Securities in an aggregate principal amount in excess of the purchase amount are tendered and not withdrawn pursuant to the offer, the Company shall purchase Securities having an aggregate principal amount equal to the purchase amount on a pro rata basis, with adjustments so that only Securities in multiples of $1,0001 principal amount (and in a minimum amount of $2,000) shall be purchased. Upon completion of the Asset Sale Offer to Purchase, Excess Proceeds shall be reset at zero, and any Excess Proceeds remaining after consummation of the Asset Sale Offer to Purchase may be used for any purpose not otherwise prohibited by the terms hereof.]

(b) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent such laws or regulations are applicable in connection with the repurchase of the Securities pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(c) Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee as provided above, the Company shall deliver to the Trustee an Officers' Certificate certifying as to (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Proceeds from the Asset Sales pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.13(b). On such date, the Company shall also irrevocably deposit with the Trustee or with a paying agent (or, if the Company or a Wholly-Owned Restricted

Subsidiary is acting as the Paying Agent, segregate and hold in trust) an amount equal to the Excess Proceeds to be invested in Cash Equivalents, as directed in writing by the Company, and to be held for payment in accordance with the provisions of this Section 4.13. Upon the expiration of the period for which the Asset Sale Offer remains open (the "Offer Period"), the Company shall deliver to the Trustee for cancellation the Securities or portions thereof that have been properly tendered to and are to be accepted by the Company. The Trustee (or the Paying Agent, if not the Trustee) shall, on the date of purchase, mail or deliver payment to each tendering Holder in the amount of the purchase price. In the event that the Excess Proceeds delivered by the Company to the Trustee are greater than the purchase price of the Securities tendered, the Trustee shall deliver the excess to the Company immediately after the expiration of the Offer Period for application in accordance with Section 4.13.

(d) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the purchase date. Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security which was delivered by the Holder for purchase and a statement that such Holder is withdrawing his election to have such Security purchased. If at the end of the Offer Period more Securities (and such Parity Lien Debt) are tendered pursuant to an Asset Sale Offer than the Company is required to purchase, selection of such Securities for purchase shall be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which such Securities are listed, or if such Securities are not so listed, on a pro rata basis, by lot or by such other method as the Trustee shall deem fair and appropriate (and in such manner as complies with applicable legal requirements). Selection of such Parity Lien Debt shall be made pursuant to the terms of such Parity Lien Debt.

(e) Notices of an Asset Sale Offer shall be delivered electronically or mailed first class mail, postage prepaid, at least 30 but not more than 60 days before the purchase date to each Holder of Securities at such Holder's registered address. If any Security is to be purchased in part only, any notice of purchase that relates to such Security shall state the portion of the principal amount thereof that has been or is to be purchased.

Section 4.14 Transactions with Affiliates.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement including the purchase, sale, lease or exchange of property or assets, or the rendering of any service with any Affiliate of the Company or any Restricted Subsidiary (a "Related Party Transaction") unless the Related Party Transaction is on fair and reasonable terms that are not materially less favorable (as reasonably determined by the Company) to the Company or the relevant Restricted Subsidiary than those that could

be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate of the Company.

(b) Any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of $~~[~~15,000,000~~]~~ shall first be approved by a majority of the Board of Directors of the Company who are disinterested in the subject matter of the transaction pursuant to a resolution of such Board of Directors. Prior to entering into any Related Party Transaction or series of Related Party Transactions with an aggregate value in excess of $~~[~~75,000,000~~]~~, the Company shall in addition obtain a favorable written opinion from a nationally recognized investment banking firm as to the fairness of the transaction to the Company and its Restricted Subsidiaries from a financial point of view.

(c) The provisions of clauses (a) and (b) of this Section 4.14 shall not apply to:

(i) any transaction between the Company and any of its Restricted Subsidiaries or between Restricted Subsidiaries of the Company;

(ii) the payment of reasonable regular fees to directors of the Company who are not employees of the Company;

(iii) any Restricted Payments of a type described in clauses (i) or (ii) of Section 4.11(a) hereof if permitted thereunder;

(iv) any issuance of Equity Interests (other than Disqualified Equity Interests) of the Company;

(v) any issuance of Management Incentive Securities;

(vi) any issuances of Indebtedness of the Company or any of its Restricted Securities secured by a Lien or of Subordinated Indebtedness of the Company or any of its Restricted Securities to the Backstop Parties or one or more of their respective Affiliates;

(vii) loans or advances to officers, directors or employees of the Company in the ordinary course of business of the Company or its Restricted Subsidiaries or guarantees in respect thereof or otherwise made on their behalf (including payment on such guarantees) and only to the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002;

(viii) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries with officers and employees of the Company or any of its Restricted Subsidiaries that are Affiliates of the Company and the payment of compensation to such officers and employees (including amounts paid pursuant to employee benefit plans, employee stock

option or similar plans) so long as such agreement has been entered into in the ordinary course of business;

(ix) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate solely because the Company, directly or through a Restricted Subsidiary, owns Equity Interests in such Person or owes Indebtedness to such Person;

(x) transactions arising under any contract, agreement, instrument or arrangement in effect on the Issue Date, as amended, modified or replaced from time to time so long as the amended, modified or new agreements, taken as a whole at the time such agreements are executed, are not materially less favorable to the Company and its Restricted Subsidiaries than those in effect on the date of the Indenture; and

~~(xi) customary transactions entered into as part of a Permitted Receivables Financing; and~~

(~~xii~~xi) ~~transactions~~Transactions, arrangements, fee reimbursements and indemnities specifically and expressly permitted between or among such parties under the Plan of Reorganization; and the consummation of the transactions contemplated by the Plan of Reorganization and the Plan Confirmation Order.

Section 4.15 Offer to Repurchase upon Change of Control or Public Offering.

(a) ~~[~~Upon a Change of Control or Public Offering, each Holder shall have the right to require the Company to repurchase all or any part of such Holder's Securities at a purchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, *plus* accrued and unpaid interest, if any, to the date of repurchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant interest payment date) ~~if repurchased during the six-month periods set forth in Schedule A hereto~~, in accordance with the terms contemplated in this Section 4.15, which repurchase price shall be deposited with the Paying Agent in accordance with Section 2.04 at the consummation of such Change of Control or Public Offering.~~]~~

(b) ~~[Upon a Public Offering, each Holder shall have the right to require the Company to repurchase from the net proceeds received by the Company from such Public Offering all or any part of such Holder's Securities at a purchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, *plus* accrued and unpaid interest, if any, to the date of repurchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant interest payment date) if repurchased during the six-month periods set forth in Schedule A, in accordance with the terms contemplated in this Section 4.15. Notwithstanding the foregoing, in the event the net proceeds of such Public Offering~~

~~are less than the aggregate purchase price (including accrued and unpaid interest) on the repurchase date for all the then outstanding Securities on the date of the notice of the~~Each Change of Control Repurchase Offer or Public Offering Repurchase Offer~~, such Holder shall have the right to require the Company to repurchase only up to the amount of such Holder's Securities multiplied by the fraction of (i) the numerator of which is the amount of such net proceeds and (ii) the denominator of which is the amount of the aggregate purchase price (including accrued and unpaid interest) in such Public Offering Repurchase Offer if all outstanding Securities on the date of the notice of the Public Offering Repurchase Offer were repurchased on the repurchase date (such fraction, the "Public Offering Pro Rata Portion").]~~ shall be made in advance of such Change of Control or Public Offering, and shall be conditioned upon such Change of Control or Public Offering.

(c) ~~[Within 30 days following any Change of Control or Public Offering, the~~The Company shall mail (1) in the case of a Change of Control, a notice (a "Change of Control Repurchase Offer"~~ or~~) no later than the earliest to occur of (x) the date on which the Company has a binding agreement in place pursuant to which the Company reasonably expects that a Change of Control will occur within the next 30 days (which shall be no later than the date on which all conditions precedent for the consummation of the transaction that constitutes a Change of Control shall have been met) and (z) the date on which such Change of Control takes place; and (2) in the case of a Public Offering, a notice (a "Public Offering Repurchase Offer~~,~~" ~~as the~~) no later than the earliest to occur of (x) the date on which the Company reasonably expects that a Public Offering will occur within the next 30 days (which shall be no later than the date on which the Company commences a "roadshow" for such Public Offering) and (y) the date on which such Public Offering takes place, in either case~~ may be),~~ to each Holder with a copy to the Trustee stating:

(i) ~~that (A) a~~in the event the Change of Control ~~has occurred and that~~or Public Offering is consummated, such Holder ~~has~~shall have the right to require the Company to repurchase such Holder's Securities at a repurchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, plus accrued and unpaid interest to the repurchase date~~, or (B) a Public Offering has occurred and that such Holder has the right to require the Company to repurchase such Holder's Securities at a repurchase price in cash (expressed as percentages of principal amount of the Securities to be repurchased for the six-month period in which such Securities are repurchased) set forth in Schedule A hereto, plus accrued and unpaid interest to the repurchase date; *provided* that in the event the net proceeds of such Public Offering are less than the aggregate purchase price (including accrued and unpaid interest) on the repurchase date for all the then outstanding Securities on the date of the notice of the Public Offering Repurchase Offer, such Holder shall have the right to require the Company to repurchase up to~~

~~only that amount of such Holder's Securities multiplied by the Public Offering Pro Rata Portion.~~;

(ii) the circumstances and relevant facts and financial information regarding such Change of Control or Public Offering;

(~~ii~~) ~~the circumstances and relevant facts and financial information regarding~~ iii) that the Change of Control Repurchase Offer or the Public Offering Repurchase Offer, as the case may be, is conditioned upon the consummation of such Change of Control or the Public Offering;

(~~iii~~iv) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed; provided the repurchase date may be extended or modified so that such repurchase date may be the date of the consummation of the Change of Control or the Public Offering); and

(~~iv~~v) the instructions determined by the Company, consistent with this Section 4.15, that a Holder must follow in order to have its Securities purchased.~~]~~

(d) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the purchase date. The Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Security purchased. Holders whose Securities are purchased only in part shall be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered.

(e) On the purchase date, all Securities purchased by the Company under this Section shall be delivered to the Trustee for cancellation, and the Company shall pay the purchase price *plus* accrued and unpaid interest to the Holders entitled thereto.

~~(f) [A Change of Control Offer may be made in advance of a Change of Control, and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.]~~

(~~g~~f) Notwithstanding the foregoing provisions of this Section, the Company shall not be required to make a Change of Control Repurchase Offer upon a Change of Control if a third party makes the Change of Control Repurchase Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 applicable to a Change of Control Repurchase Offer made by the Company and

purchases all Securities validly tendered and not withdrawn under such Change of Control Repurchase Offer.

(~~h~~g) ~~[~~Notwithstanding the foregoing provisions of this Section, the Holders of a majority in aggregate principal amount of the Securities then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) may permit or require the repurchase price for a Change of Control Repurchase Offer or a Public Offering Repurchase Offer to be paid in part or in whole in non-cash consideration of the Company and further require that the Company obtain a fair value opinion of a nationally recognized investment bank consented to by the Holders in such vote that such non-cash consideration is equivalent in value to that portion of the repurchase price otherwise payable in cash under this Section 4.15.~~]~~

(~~i~~h) Securities repurchased by the Company pursuant to a Change of Control Repurchase Offer or a Public Offering Repurchase Offer, as the case may be, will have the status of Securities issued but not outstanding or will be retired and canceled at the option of the Company. Securities purchased by a third party pursuant to the preceding clause (f) will have the status of Securities issued and outstanding.

(~~j~~i) At the time the Company delivers Securities to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Securities are to be accepted by the Company pursuant to and in accordance with the terms of this Section 4.15. A Security shall be deemed to have been accepted for purchase at the time the Trustee, directly or through an agent, mails or delivers payment therefor to the surrendering Holder.

(~~k~~j) Prior to any Change of Control Repurchase Offer or Public Offering Repurchase Offer, the Company shall deliver to the Trustee an Officers' Certificate stating that all conditions precedent contained herein to the right of the Company to make such offer have been complied with.

(~~l~~k) The Company shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Securities pursuant to this Section. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.15, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section by virtue thereof.

Section 4.16 Liens.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, Incur or suffer to exist any Lien on or with respect to the Collateral other than Permitted Liens. Subject to the immediately preceding sentence, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, Incur or suffer to exist any Lien, other than Permitted Liens, on any asset or

property of the Company or any such Restricted Subsidiary of the Company, or any income or profits therefrom, or assign or convey any right to receive income therefrom, whether owned at the Issue Date or thereafter acquired unless the Securities Obligations are secured equally and ratably with (or, in the case of Subordinated Indebtedness, prior or senior thereto, with the same relative priority as the Securities Obligations shall have with respect to such Subordinated Indebtedness) the obligation or liability secured by such Lien.

(b) Any Lien on property securing the Secured Obligations for the benefit of the Secured Parties shall be automatically and unconditionally released and discharged in accordance with the terms and provisions of the Junior Lien Intercreditor ~~Agreements~~Agreement and, to the extent applicable and not in conflict with the Junior Lien Intercreditor ~~Agreements~~Agreement, this Indenture and the other applicable Collateral Documents.

(c) For purposes of determining compliance with this covenant, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in clauses (1) through (29) of the definition of "Permitted Liens" but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens described in clauses (1) through (29) of the definition of "Permitted Liens", the Company shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien or such item of Indebtedness secured by such Lien in one of the clauses of the definition of "Permitted Liens" and such Lien securing such item of Indebtedness will be treated as being Incurred or existing pursuant to only one of such clauses.

(d) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest or fees, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Company, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (~~3~~8) of the definition of "Indebtedness".

Section 4.17 ~~[Covenant Suspension. If on any date following the Issue Date, (i) the Securities have Investment Grade Ratings from both Rating Agencies, and (ii) no Default has~~

~~occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Covenant Suspension Event"), then, beginning on that day and continuing at all times thereafter until the Reversion Date (as defined below), and subject to the provisions of the following paragraph~~Payments for Consent. The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Securityholder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, the Collateral Documents or the Securities unless such consideration is offered to be paid and is paid to all Holders of the Securities that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement. Notwithstanding the foregoing, in the case of an offering of securities to Securityholders by the Company or any of its Restricted Subsidiaries (including, without limitation, an exchange offer) in which a consent, waiver or amendment is sought, if such offering is intended to be exempt from the registration requirements of the Securities Act, the Company and ~~the~~its Restricted Subsidiaries ~~shall not be subject to Section 4.09, Section 4.10, Section 4.11, Section 4.12, Section 4.13, Section 4.14 and Section 5.01(d) (collectively the "Suspended Covenants")~~may offer and issue such securities only to Securityholders who are eligible to receive such securities in accordance with such exemption from registration. In addition, the ~~then-existing Guarantees shall also be suspended immediately following a Covenant Suspension Event.~~Company will not be required to, nor will any of its Restricted Subsidiaries be required to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Securityholder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, the Collateral Documents or the Securities that has the purpose of permitting a specified transaction under the terms and conditions of this Indenture that was otherwise permitted under the terms and conditions of the LC/Term Credit Agreement or the ABL Credit Agreement or any other Senior Lender Documents (as defined in the Junior Lien Intercreditor Agreement).

~~In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Securities below an Investment Grade Rating, then the Company and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under this Indenture with respect to future events and the Guarantees will be reinstated.~~

~~On each Reversion Date, all Indebtedness Incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period will be classified as having been Incurred or issued pursuant to Section 4.10(a) or Section 4.10(b) (to the extent such Indebtedness or Disqualified Stock or Preferred Stock would be permitted to be Incurred or issued thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred or issued prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness or Disqualified Stock or Preferred Stock would not be so permitted to be Incurred or issued pursuant to Section 4.10(a), such Indebtedness or Disqualified Stock or Preferred Stock will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under~~

~~Section 4.10(b)(xi). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.11 will be made as though Section 4.11 had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under Section 4.11(a). In addition, for purposes of Section 4.14, all agreements and arrangements entered into by the Company and any Restricted Subsidiary with an Affiliate of the Company during the Suspension Period prior to such Reversion Date will be deemed to have been entered into on or prior to the Issue Date and for purposes of Section 4.12, all contracts entered into during the Suspension Period prior to such Reversion Date that contain any of the restrictions contemplated by such Section will be deemed to have been existing on the Issue Date. As described above, however, no Default or Event of Default will be deemed to have occurred on the Reversion Date as a result of any actions taken by the Company or the Restricted Subsidiaries during the Suspension Period.~~

~~For purposes of Section 4.13, on the Reversion Date, the unutilized Excess Proceeds amount will be reset to zero.~~

~~Upon the occurrence of a Covenant Suspension Event or a Reversion Date, the Company shall provide written notice to the Trustee, and file with the Trustee an Officers' Certificate certifying that such suspension or reversion complied with the foregoing provisions. In the case of a Covenant Suspension Event, such notice shall list the Suspended Covenants.]~~

ARTICLE V
SUCCESSOR CORPORATION

Section 5.01 When the Company May Merge or Transfer Assets. The Company shall not consolidate with or merge with or into any other Person or convey, transfer or lease all or substantially all of its properties and assets to any Person, unless:

(a) (i) the Company shall be the resulting or surviving corporation or (ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, transfer or lease all or substantially all of the properties and assets of the Company (x) ~~[~~shall be a corporation organized and validly existing under the laws of the United States or any State thereof or the District of Columbia,~~]~~ and (y) shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, all of the obligations of the Company under the Securities, this Indenture and the Collateral Documents;

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(c) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Article V and that all

conditions precedent herein provided for relating to such transaction have been complied with; and

(d) immediately after giving pro forma effect to such transaction, as if such transaction had occurred at the beginning of the applicable four-quarter period (and treating any Indebtedness which becomes an obligation of the successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), either

(i) the successor Company would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio Test set forth in Section 4.10(a); or

(ii) the Fixed Charge Coverage Ratio for the successor Company and its Restricted Subsidiaries would be at least equal to such ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

provided, that clauses (i) and (ii) of this Section 5.01(d) do not apply (i) to the consolidation, merger, sale, conveyance, transfer or other disposition of the Company with, into or to a Wholly Owned Restricted Subsidiary or the consolidation, merger, sale, conveyance, transfer or other disposition of a Wholly Owned Restricted Subsidiary with, into or to the Company or (ii) if, in the good faith determination of the Board of Directors of the Company, whose determination is evidenced by a Board Resolution, the sole purpose of the transaction is to change the jurisdiction of incorporation of the Company.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the properties and assets of one or more Subsidiaries (other than to the Company or another Subsidiary), which, if such assets were owned by the Company would constitute all or substantially all of the properties and assets of the Company shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

Section 5.02 Successor Corporation to be Substituted. The successor corporation formed by such consolidation or into which the Company is merged or the successor corporation to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor had been named as the Company herein; and thereafter the Company shall be discharged from all obligations and covenants under this Indenture, the Securities and the Collateral Documents. Subject to Section 9.06, the Company, the Trustee (upon receipt of a Company Order) and the successor corporation shall enter into a supplemental indenture (with endorsements of Guarantees thereon by the Guarantors) to evidence such succession, substitution and exercise of every right and power of such successor corporation and such discharge and release of the Company.

ARTICLE VI
DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Subject to the provisions set forth below in this Section 6.01, an "Event of Default" occurs if:

(a) the Company defaults in the payment of interest (pursuant to paragraph 1 of the Securities), if any, payable on any Security when the same becomes due and payable and such default continues for a period of 30 days;

(b) the Company defaults in the payment of the Principal Amount or premium on any Security when the same becomes due and payable at its Stated Maturity, upon declaration, upon redemption, when due for purchase by the Company or otherwise;

(c) the Company fails to comply with any of its agreements in the Securities or this Indenture (other than (i) a default specified in clauses (a) or (b) of this Section 6.01 or (ii) under Section 4.02 hereof) or the Collateral Documents and such failure continues for 60 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the Securities;

(d) the Company fails to comply with Section 4.02 and such failure continues for 90 consecutive days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of 25% or more in aggregate principal amount of the Securities;

(e) the Company fails to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) the stated principal amount of any of the Company's or its Subsidiaries' Indebtedness, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 10 days of receipt by the Company or such Subsidiary of notice of any such acceleration) if the aggregate principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at final stated maturity or which has been accelerated (in each case with respect to which the 10-day period described above has elapsed), aggregates $~~[~~25.0~~]~~ million or more at any time;

(f) the Company or a Significant Subsidiary of the Company fails to pay when due any final, non-appealable judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating in excess of $~~[~~25.0~~]~~ million, which judgments are not stayed, bonded or discharged within 60 days after their entry;

(g) any Guarantee by a Guarantor that is a Significant Subsidiary shall for any reason cease to be, or be asserted by the Company or such Guarantor, as

applicable, not to be, in full force and effect (except pursuant to the release of any such Guarantee in accordance with the provisions of this Indenture);

(h) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Company or any Significant Subsidiary of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Company or any Significant Subsidiary or for any substantial part of the Company's or any Significant Subsidiary's property or ordering the winding up or liquidation of the Company's or any Significant Subsidiaries affairs and such decree or order shall remain unstayed and in effect for a period of 60 days;

(i) the Company or any Significant Subsidiary of the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Company or such Significant Subsidiary of the Company or for any substantial part of its property or make any general assignment for the benefit of creditors; or

(j) unless such Liens have been released in accordance with the provisions of this Indenture and the Collateral Documents, Liens in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) with respect to all or a substantial portion of the Collateral cease to be valid, enforceable or perfected Liens (subject only to Permitted Liens) or the Company or any Guarantor shall assert, in any pleading in any court of competent jurisdiction, that any such security interest is invalid or unenforceable and, in the case of any Guarantor, the Company fails to cause such Guarantor to rescind such assertions within 30 days after the Company has actual knowledge of such assertions.

Section 6.02 Defaults and Remedies. If an Event of Default (other than an Event of Default specified in Section 6.01(h) with respect to the Company or Section 6.01(i) with respect to the Company) occurs and is continuing, subject to the provisions, terms and conditions of the Junior Lien Intercreditor ~~Agreements~~Agreement, the Trustee by notice to the Company and the Collateral Trustee, or the Holders of at least 25% in aggregate Principal Amount of the Securities at the time outstanding by notice to the Company, the Trustee and Collateral Trustee, may declare all Securities Obligations ~~[~~(including the Acceleration Premium set forth in this Section 6.02)~~]~~ to be immediately due and payable in cash. Upon such a declaration, such Securities Obligations shall become and be immediately due and payable in cash subject to the provisions of Article X. If an Event of Default specified in Section 6.01(d), Section 6.01(h) or Section 6.01(i) occurs and is continuing, all Securities Obligations ~~[~~(including the Acceleration Premium set forth in this Section 6.02)~~]~~ shall become and be immediately due and payable in cash without any declaration or other act on the part of the Trustee or any Securityholder.

The Holders of a majority in principal amount of the Securities then outstanding by notice to the Trustee and the Collateral Trustee may rescind an acceleration and its consequences~~[~~, including the payment of the Acceleration Premium,~~]~~ if (a) all existing Events of Default, other than the nonpayment of the principal of and other premium, accrued and unpaid interest, if any, on the Securities which has become due solely by such declaration of acceleration, have been cured or waived; (b) the Company has paid or deposited with the Trustee a sum in immediately available funds sufficient to pay (i) all overdue interest, if any, on the Securities, (ii) the principal of any Security which has become due otherwise than by such declaration of acceleration, and (iii) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration; (c) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (d) all payments due to the Trustee and any predecessor Trustee under Section 7.07 have been made. No such rescission shall affect any subsequent Default or Event of Default or impair any right consequent thereon.

~~[~~If for any reason Securities Obligations are accelerated at any time and such acceleration is not rescinded pursuant to this Section 6.02, in view of the impracticality and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof, the Company agrees to pay in respect of the Securities, upon the effective date of such acceleration, a repayment fee in the amount equal to the Acceleration Premium. Such Acceleration Premium shall be presumed to be the amount of liquidated damages sustained by Holders as a result of such acceleration and each of the Company and the Guarantors agrees that it is reasonable under the circumstances currently existing. In addition, Holders shall be entitled to such Acceleration Premium upon the occurrence of any Event of Default described in Section 6.01(d), Section 6.01(h) or Section 6.01(i) hereof, even if Holders elect, at their option, to provide financing to any obligor hereunder or permit the use of cash collateral under the Bankruptcy Code.

The Company and each Guarantor acknowledges, and, by accepting a Security, each Holder agrees, that each Holder of Securities has the right to maintain its investment in such Securities free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of an Acceleration Premium by the Company in the event that the Securities are accelerated as a result of an Event of Default is intended to provide compensation for the deprivation of such right under such circumstances.~~]~~

Section 6.03 Other Remedies. If an Event of Default occurs and is continuing, subject to the provisions, terms and conditions of the Junior Lien Intercreditor ~~Agreements~~Agreement, the Trustee may pursue any available remedy to collect the payment of the Principal Amount of all the Securities ~~[~~plus the Acceleration Premium~~]~~, plus all other premium, accrued and unpaid interest, if any, thereon or to enforce the performance of any provision of the Securities, this Indenture or the Collateral Documents.

The Trustee may maintain a proceeding even if the Trustee does not possess any of the Securities or does not produce any of the Securities in the proceeding. A delay or omission by

the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Past Defaults. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding (calculated in accordance with Section 2.08 and the definition of "Affiliate" hereunder), by notice in writing to the Trustee (and without notice to any other Securityholder necessary), may waive an existing Default and its consequences, except (a) an Event of Default described in Section 6.01(a) or 6.01(b) or (b) a Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Securityholder affected. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right. This Section 6.04 shall be in lieu of Section 316(a)1(B) of the TIA and such Section 316(a)1(B) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.05 Control by Majority. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding (calculated in accordance with Section 2.08 and the definition of "Affiliate" hereunder) may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines in good faith is unduly prejudicial to the rights of other Securityholders or would involve the Trustee in personal liability. This Section 6.05 shall be in lieu of Section 316(a)1(A) of the TIA and such Section 316(a)1(A) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.06 Limitation on Suits. A Securityholder may not pursue any remedy with respect to this Indenture or the Securities unless:

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

(b) the Holders of at least a majority in aggregate Principal Amount of the Securities at the time outstanding make a written request to the Trustee to pursue the remedy;

(c) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee, in its sole discretion, against any loss, liability or expense;

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

(e) the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Securityholder may not use this Indenture to prejudice the rights of any other Securityholder or to obtain a preference or priority over any other Securityholder. The rights and remedies of each Securityholder are subject to the terms of the Junior Lien Intercreditor Agreement.

Section 6.07 Rights of Holders to Receive Payment. Subject to the provisions of Article X hereof, notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of interest installments, the Principal Amount, and premium, if any, due on overdue amounts in respect of the Securities held by such Holder, on or after the respective due dates expressed in the Securities, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected adversely without the consent of such Holder.

Section 6.08 Collection Suit by Trustee. If an Event of Default described in Section 6.01(a) or 6.01(b) occurs and is continuing, without possession of any of the Securities or the production thereof in any proceeding related thereto, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount owing with respect to the Securities and the amounts provided for in Section 7.07.

Section 6.09 Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Guarantor or any other obligor upon the Securities or the property of the Company, any Guarantor or of such other obligor or their creditors, the Trustee (irrespective of whether interest installments, the Principal Amount, premium, interest, if any, due on overdue amounts in respect of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company or the Guarantors for the payment of any such amount) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for any accrued and unpaid interest installments, the whole amount of the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the Securities, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel or any other amounts due the Trustee under Section 7.07) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07.

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

Section 6.10 Priorities. Subject to the terms, conditions and provisions of the Junior Lien Intercreditor ~~Agreements~~Agreement and the Collateral Documents, any money collected by the Trustee pursuant to this Article VI, and any money or other property distributable in respect of the Securities Obligations after the occurrence of an Event of Default, shall be applied in the following order:

FIRST: to the Trustee (including any predecessor Trustee), its agents, professional advisors and counsel for amounts due under Section 7.07;

SECOND: to Securityholders for amounts due and unpaid on the Securities for any accrued and unpaid interest installments, the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the Securities, as the case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Securities; and

THIRD: the balance, if any, to the Company or the Guarantors or to such other party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section 6.10. At least 15 days before such record date, the Trustee shall mail to each Securityholder and the Company a notice that states the record date, the payment date and the amount to be paid (to the extent such information is then known by the Trustee and is not superseded by an order issued by a court of competent jurisdiction).

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant (other than the Trustee) in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate Principal Amount of the Securities at the time outstanding. This Section 6.11 shall be in lieu of Section 315(e) of the TIA and such Section 315(e) is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 6.12 Waiver of Stay, Extension or Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company from paying all or any portion of any interest installment, the Principal Amount, premium, or interest, if any, due on overdue amounts in respect of the

Securities, as contemplated herein, or which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII
TRUSTEE

Section 7.01 Duties of Trustee. (a) If an Event of Default has occurred and is continuing and is actually known to a Responsible Officer, the Trustee shall exercise such of 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 undertakes to perform such duties and only such duties that are specifically set forth in this Indenture and no implied covenants or other obligations shall be read into this Indenture against the Trustee; and

(ii) the duties of the Trustee will be determined solely by the express provisions of this Indenture, in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine such certificates and opinions to determine whether or not they conform on their face to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts, statements, conclusions or opinions contained therein).

This Section 7.01(b) shall be in lieu of Section 315(a) of the TIA and such Section 315(a) is hereby expressly excluded from this Indenture, as permitted by the TIA.

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

(i) this paragraph (c) does not limit the effect of paragraph (b) or (e) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee unless it is proved in a court

of competent jurisdiction in a final and non-appealable decision that the Trustee was negligent in ascertaining the pertinent facts; and

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

Section 7.01(c)(i), (ii) and (iii) shall be in lieu of Sections 315(d)(1), 315(d)(2) and 315(d)(3) of the TIA and such Sections 315(d)(1), 315(d)(2) and 315(d)(3) are hereby expressly excluded from this Indenture, as permitted by the TIA.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to Section 7.01(a), (b), (c) and (e).

(e) The Trustee may refuse to perform any duty or exercise any right or power or expend or risk its own funds or otherwise incur any financial liability unless it receives security or indemnity satisfactory to it, in its sole discretion, against any loss, liability or expense.

(f) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee (acting in any capacity hereunder) shall be under no liability for interest on, or be required to invest, any money received by it hereunder unless otherwise agreed in writing with the Company.

Section 7.02 Rights of Trustee. Subject to the provisions of Section 7.01.

(a) the Trustee may conclusively rely and shall be fully 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 believed by it in the absence of bad faith to be genuine and to have been signed or presented by the proper party or parties, and the Trustee need not, and shall not be under any obligation to, investigate any fact or other matter stated in any such document;

(b) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may in the absence of bad faith rely conclusively upon an Officers' Certificate and/or an Opinion of Counsel;

(c) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodian or nominee appointed with due care by it hereunder;

(d) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith which it reasonably believes to be authorized or within its rights or powers conferred under this Indenture;

(e) the Trustee may consult with counsel selected by it and any advice or opinion 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 in good faith 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 pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee, in its sole discretion, against the costs, fees, expenses and liabilities which may be incurred by it in compliance with such request or direction;

(g) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Order and any resolution of the Board of Directors shall be sufficiently evidenced by a Board Resolution;

(h) 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, 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, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, during normal business hours and after reasonable prior notice to the Company, to examine the books, records and premises of the Company, personally or by agent or attorney, at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(i) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice of such Default or Event of Default at the Corporate Trust Office of the Trustee from the Company, any Guarantor or any Holder, and such notice references the Securities and this Indenture;

(j) the rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder;

(k) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which certificate may be signed by any

person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(l) the Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article IV;

(m) any permissive right or authority granted to the Trustee shall not be construed as a mandatory duty;

(n) the Company shall provide prompt written notice to the Trustee of any change to its fiscal year;

(o) neither the Trustee nor any of its officers, directors, employees or agents shall be liable for any action taken or omitted under this Indenture or in connection therewith except to the extent caused by the Trustee's gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, no longer subject to appeal or review. Anything in this Indenture to the contrary notwithstanding, in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action; and

(p) the Trustee shall not be required to give any bond or surety in respect of the performance of its duties hereunder.

Section 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or co-registrar may do the same with like rights. However, the Trustee must comply with Section 7.10 and Section 7.11.

Section 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use or application of the proceeds from the Securities, it shall not be responsible for any statement in any registration statement for the Securities under the Securities Act, in any offering document for, or in any document entered into in connection with the sale of, the Securities, in this Indenture or in the Securities (other than its certificate of authentication), all of which statements shall be taken as the statements of the Company. The Trustee shall have no duty to see to the performance or observance of, or to perform or observe, any of the covenants and agreements on the part of the Company, any Guarantor or any other Person to be performed or observed under this Indenture or any of the Securities or Guarantees. The Trustee shall not be responsible for making any calculation or computation in respect of any matter referred to in this Indenture.

Section 7.05 Notice of Defaults. If a Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall give to each Securityholder notice of all such Defaults known to it within 90 days after any such Default

occurs or, if later, within 15 days after it is actually known to a Responsible Officer of the Trustee, unless such Default shall have been cured or waived before the giving of such notice. Notwithstanding the preceding sentence, except in the case of a Default described in Section 6.01(a) and Section 6.01(b), if and as long as the Trustee also acts in the capacity of the Paying Agent, the Trustee may withhold the notice if and so long as a committee of Responsible Officers of the Trustee in good faith determines that withholding the notice is in the interests of Securityholders. The second sentence of this Section 7.05 shall be in lieu of the proviso to Section 315(b) of the TIA and such proviso is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 7.06 Reports by Trustee to Holders. Within 60 days after each May 15 beginning with the May 15 following the date of this instrument, the Trustee shall mail, or submit to electronic submission (for Securities held in book-entry form) to each Securityholder a brief report dated as of such May 15 that complies with TIA Section 313(a), if required by such Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the 12 months preceding the reporting date, no report need by transmitted). The Trustee also shall comply with TIA Section 313(b), if required by such Section 313(b).

The Company agrees to notify the Trustee promptly in writing whenever the securities become listed on any securities exchange and of any delisting thereof.

Section 7.07 Compensation and Indemnity. The Company agrees:

(a) to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) to reimburse the Trustee promptly following its written request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture or any documents executed in connection herewith (including the reasonable compensation and the expenses and disbursements of its agents, professional advisors and one primary counsel and required local counsel), except any such expense, disbursement or advance as may be attributable to its gross negligence or willful misconduct; and

(c) to indemnify the Trustee or any predecessor Trustee and their agents, officers, directors and employees for, and to hold them harmless against, any and all loss, damage, claim, liability, cost or expense (including attorneys' fees and expenses of one primary counsel and required local counsel and taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) incurred without gross negligence or willful misconduct on its part, as determined by a court of competent jurisdiction in a final and non-appealable decision, arising out of or in connection with this Indenture, the Securities and the acceptance or administration of the trust or trusts hereunder, including the documented costs and expenses of defending itself against any claim (whether asserted by the Company or any Holder or any other Person) or liability

in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section. The Company shall defend any such claim and the Trustee shall cooperate in such defense. The Trustee may have separate counsel, and the Company shall pay the reasonable costs and expenses of any such separate counsel.

To secure the Company's obligations in this Section 7.07, the Trustee shall have a Lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay interest installments, the Principal Amount, premium, or interest, if any, due on overdue amounts, and on the Collateral. Such lien shall survive the satisfaction and discharge of this Indenture.

The Company's obligations pursuant to this Section 7.07 and the Lien provided for herein shall survive the satisfaction and discharge of this Indenture and the Securities, the termination for any reason of this Indenture (including any termination or rejection hereof under any bankruptcy law) and the removal, resignation or replacement of the Trustee. In addition to, and without prejudice to its other rights hereunder, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(h) or Section 6.01(i), the expenses, including the reasonable charges and expenses of its counsel, and the compensation for the services, are intended to constitute expenses of administration under any bankruptcy law.

Section 7.08 Replacement of Trustee. The Trustee may resign by so notifying the Company and be discharged from the trust created hereby; *provided, however,* that no such resignation shall be effective until a successor Trustee has accepted its appointment pursuant to this Section 7.08. The Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may remove the Trustee by so notifying the Trustee and the Company in writing. The Company shall remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10;

(b) the Trustee is adjudged bankrupt or insolvent;

(c) a receiver or public officer takes charge of the Trustee or its property; or

(d) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint, by resolution of its Board of Directors, a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company satisfactory in form and substance to the retiring Trustee and the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail, or submit by electronic submission (for Securities held in book-entry form), a notice of its succession to Securityholders. The retiring Trustee

shall promptly transfer all property held by it as Trustee to the successor Trustee, provided that all sums owing to the Trustee hereunder have been paid and subject to the lien provided for in Section 7.07. Notwithstanding the replacement of the Trustee, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring trustee.

If a successor Trustee does not take office within 30 days after the retiring Trustee gives its notice of resignation or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may petition any court of competent jurisdiction, in each case at the expense of the Company for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10, any Securityholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Section 7.09 Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business or assets (including the administration of the trust created by this Indenture) to, another entity, the resulting, surviving or transferee entity without the execution or filing of any paper or any further act of any of the parties hereto shall be the successor Trustee.

Section 7.10 Eligibility; Disqualification. The Trustee shall at all times satisfy the requirements of TIA Section 310(a)(1). The Trustee (or its parent holding company) shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition. Nothing herein contained shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA Section 310(b). The Trustee shall comply with TIA Section 310(b); *provided, however,* that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.11 Preferential Collection of Claims Against Company. The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE VIII
DISCHARGE OF INDENTURE

Section 8.01 Discharge of Liability on Securities. When (i) the Company delivers to the Trustee all outstanding Securities (other than Securities replaced pursuant to Section 2.07) for cancellation or (ii) all outstanding Securities have become due and payable or will become due and payable at the Stated Maturity within one year and, in each case, the Company irrevocably deposits with the Trustee cash, in immediately available funds, sufficient to pay and discharge all amounts due and owing on all outstanding Securities (other than Securities replaced pursuant to Section 2.07), together with irrevocable instructions from the Company directing the Trustee to apply such funds to the payment thereof at Stated Maturity and if all

other Securities Obligations have been paid and satisfied in full, then this Indenture shall, subject to Section 7.07, cease to be of further effect. The Trustee shall join in the execution of a document prepared by the Company acknowledging satisfaction and discharge of this Indenture on demand at the cost and expense of the Company and accompanied by (i) an Officers' Certificate and (ii) a certificate from a nationally recognized firm of independent accountants expressing its opinion that the payment of such deposited cash without investment will provide cash at such times and in such amounts as will be sufficient to pay principal, premium, if any, and interest when due on all the Securities to Stated Maturity, and the Company shall promptly provide written notice of such satisfaction and discharge to the Collateral Trustee in accordance with the provisions of the Collateral Trust Agreement.

Section 8.02 Repayment to the Company. The Trustee and the Paying Agent shall return to the Company upon written request any money held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, as applicable, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person and the Trustee and the Paying Agent shall have no further liability to the Securityholders with respect to such money or securities for that period commencing after the return thereof.

ARTICLE IX
AMENDMENTS

Section 9.01 Without Consent of Holders. The Company and the Trustee together may amend or supplement this Indenture, the Collateral Documents to which the Trustee is a party or the Securities without notice to or consent of any Securityholder or Guarantor:

(a) to comply with Article V;

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

(c) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities;

(d) to make any changes that would provide the holders of Securities with any additional rights or benefits;

(e) to make any change that does not adversely affect the rights of any Holder;

(f) to add additional Guarantors to this Indenture, any Collateral Document or the Collateral Trust Agreement, or to add Collateral to secure the Securities Obligations or otherwise enter into additional or supplemental Collateral Documents pursuant to this Indenture, any Collateral Document or otherwise, or a collateral trust agreement with respect thereto, including the amendment of any Collateral Documents

or intercreditor agreements to reflect or permit the incurrence of additional Parity Lien Debt or Priority Lien Debt that is otherwise permitted hereunder;

(g) to release any Guarantor from any of its Securities Obligations under its Guarantee when permitted or required by this Indenture and the Collateral Documents, as applicable;

(h) to release or subordinate the Parity Liens with respect to the Collateral in accordance with the terms of this Indenture, the Collateral Trust Agreement or the other Collateral Documents;

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

(j) to release Collateral from the Lien of this Indenture and the Collateral Documents when permitted or required by the Junior Lien Intercreditor ~~Agreements~~Agreement and, to the extent applicable and not in conflict with the Junior Lien Intercreditor ~~Agreements~~Agreement, this Indenture and the other Collateral Documents;

(k) to make, complete or confirm any grant of a Lien on Collateral permitted or required by this Indenture or any of the Collateral Documents or, to the extent required under the Junior Lien Intercreditor ~~Agreements~~Agreement, to conform any Collateral Documents to reflect permitted amendments or modifications to comparable provisions under any Credit Agreement Documents;

(l) ~~[~~to amend the ~~Senior Priority~~Junior Lien Intercreditor Agreement pursuant to Section ~~[ ]~~31 thereof or otherwise enter into an intercreditor agreement in respect of any Credit Agreement permitted hereby to the extent permitted under the Junior Lien Intercreditor ~~Agreements~~Agreement and provided such intercreditor agreement is not less favorable to the Secured Parties (as defined in the Collateral Trust Agreement) (taken as a whole) than the Junior Lien Intercreditor ~~Agreements~~Agreement in effect as of the Issue Date~~]~~; or

(m) to comply with the provisions of the TIA or with any requirement of the SEC, in each case, arising as a result of the qualification of this Indenture under the TIA.

Section 9.02 ~~[~~With Consent of Holders. The Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Securities, the Guarantees and the Collateral Documents without notice to any Securityholder but with the ~~written~~consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) and, subject to Section 6.04 and Section 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of principal of, premium, if any, or interest on, the Securities, except a payment default resulting from an acceleration that has been rescinded) or compliance with

any provision of this Indenture, the Collateral Documents or the Securities or the Guarantees may be waived with with the consent of the Holders of a majority in aggregate Principal Amount of the Securities then outstanding~~. The Holders of a majority in aggregate Principal Amount of the Securities then outstanding may waive compliance by the Company with restrictive provisions of this Indenture~~ voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) other than as set forth in this Section 9.02 below~~, and waive any past Default under this Indenture and its consequences, except a Default in the payment of the principal of, premium due in respect of, or interest on any Security or in respect of a provision which under this Indenture cannot be modified or amended without the consent of the Holder of each outstanding Security affected.~~.

Subject to Section 9.04, without the written consent of each Securityholder affected, however, an amendment, supplement or waiver, including a waiver pursuant to Section 6.04, may not:

~~(a) change the Stated Maturity of the principal of, the time at which any Security may be redeemed, or any payment date of any installment of interest on any Security;~~

(a) reduce the principal amount of such Securities whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal ~~amount of, premium due in respect of, or the rate of interest on, any Security, whether upon acceleration, redemption or otherwise, or alter the manner of calculation of interest (~~of or change the fixed final maturity of any such Securities or alter or waive the provisions with respect to the redemption of such Securities (other than provisions relating to Section 4.13 or Section 4.15, the notice provisions thereof and the premiums, if any, payable thereunder, including, without limitation, ~~the rate of interest during the continuation of an Event of Default) or the rate of accrual thereof on any Security~~whether such premiums are payable in cash or otherwise);

(c) reduce the rate of or change the ~~currency~~time for payment of ~~principal of, or~~ interest ~~or premium~~ on any ~~Security~~Securities;

(d) (A) waive a Default in the payment of principal of or premium, if any, or interest on the Securities, except a rescission of acceleration of the Securities by the Holders of a majority in aggregate principal amount of the Securities then outstanding, and a waiver of the payment default that resulted from such acceleration, or (B) waive a Default in respect of a covenant or provision contained in the Indenture or any Guarantee which cannot be amended or modified without the consent of all Holders;

(e) make any Security payable in money other than U.S. dollars, except as otherwise permitted under this Indenture;

(f) make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Securities (other than provisions relating to Section 4.13 or Section 4.15 and the premiums, if any, payable thereunder, including, without limitation, whether such premiums are payable in cash or otherwise and the provisions and definitions related to the Acceleration Premium, including, without limitation, whether such Acceleration Premium is payable in cash or otherwise);

(g) make any change in these amendment and waiver provisions;

(~~d~~h) impair the right of any Holder to receive payment of~~, or~~ principal of, premium, if any, or interest on such Holder's Securities on or after the due dates therefor or to institute suit for the enforcement of any payment of~~,~~ principal of, premium ~~due in respect of~~, if any, or interest on~~, any Security when~~ such Holder's Securities on or after the due dates therefor;

(i) make any change to or modify the ranking in right of payment of the Securities that would adversely affect the Holders;

(~~e~~j) except as expressly permitted by the Indenture, modify the ~~ranking of the Securities or any~~ Guarantee of any Significant Subsidiary in ~~a~~any manner adverse to ~~the rights of~~ the Holders of the Securities; or

~~(f) reduce the percentage of principal amount of the outstanding Securities necessary to modify or amend this Indenture or to consent to any waiver provided for in this Indenture;~~

~~(g) waive a Default in the payment of the principal amount of, premium due in respect of, or interest on, any Security (except as provided in Section 6.02);~~

~~(h) make any changes in Section 6.04, Section 6.07 or this paragraph; or~~

(~~i~~k) make any change in the provisions ~~in the Intercreditor Agreements or this~~of the Indenture or any Collateral Document dealing with the application of proceeds of the Collateral that would materially adversely affect the Holders.

In addition, ~~except as otherwise provided in the Collateral Trust Agreement, without~~any amendment to, or waiver of, the provisions of the Indenture or any Collateral Document that has the effect of releasing all or substantially all of the Collateral from Liens securing the Securities will require the consent of ~~the~~ Holders of at least 66 2/3% in aggregate principal amount of the Securities then outstanding~~, no~~. Any other amendment to or waiver ~~may release all or substantially all~~ of the provisions of any Collateral ~~from the Lien of this Indenture and the Collateral Documents, or modify or supplement the Collateral Documents in any way that would be adverse to the Holders of the Securities in any material respect.~~Document will be deemed to have been agreed to by the aggregate principal amount of

the Securities then outstanding if consented to by Holders of at least a majority in aggregate principal amount of the Securities then outstanding.

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

After an amendment under this Section 9.02 becomes effective, the Company shall mail to each Holder a notice briefly describing the amendment. Failure to mail the notice or a defect in the notice shall not affect the validity of the amendment.]

Section 9.03 Compliance with Trust Indenture Act. Every supplemental indenture executed pursuant to this Article IX shall comply with the TIA, in the event this Indenture has become qualified under the TIA.

Section 9.04 Revocation and Effect of Consents. Until an amendment, waiver or other action by Holders becomes effective, a consent thereto by a Holder of a Security hereunder is a continuing consent by the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same obligation as the consenting Holder's Security, even if notation of the consent, waiver or action is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent, waiver or action as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment, waiver or action becomes effective. After an amendment, waiver or action becomes effective, it shall bind every Securityholder.

Section 9.05 Notation on or Exchange of Securities. Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX may, and shall if required by the Trustee, bear a notation in form approved by the Company and the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Securities.

Section 9.06 Trustee to Sign Supplemental Indentures. The Trustee shall sign any supplemental indenture authorized pursuant to this Article IX if the amendment contained therein does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee need not sign such supplemental indenture. In signing such supplemental indenture, the Trustee shall, in addition to the documents required by Section 12.04 hereof, receive, and (subject to the provisions of Section 7.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such supplemental indenture is authorized or permitted by this Indenture and that such supplemental indenture is the legal, valid and binding obligation of the Company and any Guarantor party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions thereof.

Section 9.07 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article IX, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes, and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

ARTICLE X
GUARANTEES

Section 10.01 Guarantees.

(a) For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Guarantors hereby jointly and severally and irrevocably and unconditionally guarantees to the Trustee and to each Holder of a Security authenticated and delivered by the Trustee irrespective of the validity or enforceability of this Indenture or the Securities or the Securities Obligations, that: (i) the principal of, any interest on the Securities (including, without limitation, any interest that accrues after the filing of a proceeding of the type described in Section 6.01(h) or Section 6.01(i)), and premium due in respect of, the Securities and any fees, expenses and other amounts owing under this Indenture will be duly and punctually paid in full when due, whether at Stated Maturity, by acceleration, by redemption, by purchase or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Securities and any other amounts due in respect of the Securities, and all other Securities Obligations to the Holders of the Securities and to the Trustee, whether now or hereafter existing, will be promptly paid in full or performed, all strictly in accordance with the terms hereof and of the Securities; and (ii) in case of any extension of time of payment or renewal of any Securities or any of such other Securities Obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration, purchase or otherwise. If payment is not made when due of any amount so guaranteed for whatever reason, each Guarantor shall be jointly and severally obligated to pay the same individually whether or not such failure to pay has become an Event of Default which could cause acceleration pursuant to Section 6.02. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection. An Event of Default under this Indenture or the Securities shall constitute an Event of Default under this Guarantee, and shall entitle the Holders to accelerate the Securities Obligations of each Guarantor hereunder in the same manner and to the same extent as the Securities Obligations of the Company. This Guarantee is intended to be superior to or *pari passu* in right of payment with all indebtedness of the Guarantors and each Guarantor's Securities Obligations are independent of any Secured Obligation of the Company or any other Guarantor. The Securities Obligations of a Guarantor will be secured by security interests in the Collateral owned by such Guarantor to the extent provided for in the Collateral Documents and as required pursuant to Section 4.08.

(b) Each Guarantor waives, to the extent permitted by applicable law, presentation to, demand of, payment from and protest to the Company of any of the Securities Obligations and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Securities or the Securities Obligations. The Securities Obligations of each Guarantor shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under this Indenture, the Collateral Documents, the Securities or any other agreement or otherwise; (b) any extension or renewal of any guarantee thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Collateral Documents, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Securities Obligations or any of them; (e) the failure of any Holder or the Trustee to exercise any right or remedy against any other guarantor of the Securities Obligations; or (f) any change in the ownership of such Guarantor.

(c) The Securities Obligations of each Guarantor shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Securities Obligations of the Company or otherwise. Without limiting the generality of the foregoing, the Securities Obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Collateral Documents, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Securities Obligations of the Company, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of such Guarantor or would otherwise operate as a discharge of such Guarantor as a matter of law or equity.

(d) Each Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of, premium due in respect of, or interest on any Obligation of the Company with respect to the Securities is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

(e) In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Company to pay the principal of, premium due in respect of, or interest on any Secured Obligation with respect to the Securities when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Secured Obligation, each Guarantor hereby promises to and will, upon receipt of written demand by the Trustee,

forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (i) the unpaid amount of such Securities Obligations, (ii) accrued and unpaid interest on such Securities Obligations (but only to the extent not prohibited by law) and (iii) all other monetary Obligations of the Company to the Holders and the Trustee.

(f) Until such time as the Securities and the other Securities Obligations of the Company guaranteed hereby have been satisfied in full (other than contingent obligations not then due and owing), to the extent permitted by applicable law, each Guarantor hereby irrevocably waives any claim or other rights that it may now or hereafter acquire against the Company or any other Guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Securities Obligations under this Guarantee, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Holders or the Trustee against the Company or any other Guarantor or any security, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Company or any other Guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right. If any amount shall be paid to such Guarantor in violation of the preceding sentence at any time prior to the later of the payments in full of the Securities and all other amounts then due and payable under this Indenture, this Guarantee and the Stated Maturity of the Securities, such amount shall be held in trust for the benefit of the Holders and the Trustee and shall forthwith be paid to the Trustee to be credited and applied to the Securities and all other amounts payable under this Guarantee, whether matured or unmatured, in accordance with the terms of this Indenture, or to be held as security for any Securities Obligations or other amounts payable under this Guarantee thereafter arising.

(g) Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 10.01 is knowingly made in contemplation of such benefits. Each Guarantor further agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (x) subject to this Article X, the maturity of the Securities Obligations guaranteed hereby may be accelerated as provided in Article VI for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Securities Obligations guaranteed hereby, and (y) in the event of any acceleration of such Securities Obligations guaranteed hereby as provided in Article VI, such Securities Obligations (whether or not due and payable) shall further then become due and payable by the Guarantors for the purposes of this Guarantee.

(h) A Guarantor that makes a distribution or payment under a Guarantee shall be entitled to contribution from each other Guarantor in a pro rata amount based on the Adjusted Net Assets of each such other Guarantor for all payments, damages and expenses incurred by that Guarantor in discharging the Company's obligations with

respect to the Securities and this Indenture or any other Guarantor with respect to its Guarantee, so long as the exercise of such right does not impair the rights of the Holders of the Securities under the Guarantees.

(i) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys', agents' and professional advisors' fees) incurred by the Trustee, the Collateral Trustee or any Holder in enforcing any rights under this Section.

Section 10.02 Limitation on Liability. Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Securities Obligations guaranteed hereunder by any Guarantor shall not exceed the maximum amount that can be hereby guaranteed without rendering this Indenture, as it relates to such Guarantor, void, voidable or unenforceable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally. To effectuate the foregoing intention, the Securities Obligations of each Guarantor shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the Securities Obligations of such other Guarantor under its Guarantee or pursuant to its contribution Securities Obligations, result in the Securities Obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or otherwise not being void, voidable or unenforceable under any bankruptcy, reorganization, receivership, insolvency, liquidation or other similar legislation or legal principles under any applicable foreign law. Each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a contribution from each other Guarantor in a pro rata amount based on the Adjusted Net Assets of each Guarantor.

Section 10.03 Execution and Delivery of Guarantees.

(a) The Guarantee of any Guarantor shall be evidenced solely by its execution and delivery of this Indenture (or, in the case of any Guarantor that is not party to this Indenture on the Issue Date, a supplemental indenture thereto) and not by an endorsement on, or attachment to, any Security of any Guarantee or notation thereof. To effect any Guarantee of any Guarantor not a party to this Indenture on the Issue Date, such future Guarantor shall execute and deliver a supplemental indenture pursuant to Section 10.08.

(b) Each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 shall be and remain in full force and effect notwithstanding any failure to endorse on any Security a notation of such Guarantee.

(c) The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of any Guarantee set forth in this Indenture on behalf of the Guarantor.

Section 10.04 When a Guarantor May Merge, etc. No Guarantor shall consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another corporation, Person or entity whether or not affiliated with such Guarantor (but excluding any consolidation, amalgamation or merger if the surviving corporation is no longer a Subsidiary) unless (i) subject to the provisions of Section 10.07 hereof, the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) assumes all the Securities Obligations of such Guarantor pursuant to a supplemental indenture under the Securities and this Indenture and (ii) immediately after giving effect to such transaction, no Default or Event of Default exists~~; *provided* that this Section 10.04 shall not prohibit any such merger or consolidation contemplated by the Plan of Reorganization~~. In connection with any such consolidation or merger, the Trustee shall be entitled to receive an Officers' Certificate and an Opinion of Counsel stating that such consolidation or merger is permitted by, and is being consummated in compliance with, this Section 10.04, and if a supplemental indenture is required in connection with such consolidation or merger, that such supplemental indenture complies with the requirements of this Indenture.

Section 10.05 No Waiver. Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article X shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article X at law, in equity, by statute or otherwise.

Section 10.06 Modification. No modification, amendment or waiver of any provision of this Article X, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstances.

Section 10.07 Release of Guarantor.

(a) A Guarantor shall be deemed automatically and unconditionally released and discharged from all obligations under this Indenture without any further action required on the part of the Trustee or any Holder upon:

(i) the sale or other transfer or disposition (including by way of consolidation or merger) of all or substantially all of the Capital Stock or all or substantially all of the assets of a Guarantor to any Person, or the dissolution, liquidation or winding up of any such Guarantor, in each case in compliance with the terms of this Indenture (including, without limitation, Section 10.04 hereof) and in a transaction that does not result in a Default or an Event of Default being in existence or continuing immediately thereafter;

(ii) the Company designating such Guarantor to be an Unrestricted Subsidiary in accordance with the provisions of Section 4.11 and the definition of "Unrestricted Subsidiary";

(iii) the release or discharge of the guarantee of any other Indebtedness which resulted in the obligation to guarantee the Securities Obligations, in a transaction that does not result in a Default or an Event of Default being in existence or continuing immediately thereafter and no Default or Event of Default is otherwise in existence or continuing; or

(iv) the applicable Guarantor ceasing to be a Subsidiary as a result of any foreclosure of any pledge or security interest in favor of Priority Lien Obligations, subject to, in each case, the application of the proceeds of such foreclosure in the manner described in the Junior Lien Intercreditor ~~Agreements~~Agreement.

(b) The Trustee shall execute and deliver at the sole expense of the Company an appropriate instrument or instruments, prepared by the Company, evidencing such release upon receipt of a written request of the Company accompanied by an Officers' Certificate and Opinion of Counsel certifying as to the compliance with this Section 10.07 and the other applicable provisions of this Indenture.

Section 10.08 Execution of Supplemental Indentures for Future Guarantors. The Company shall cause each Subsidiary of the Company that is required to become a Guarantor of the Securities Obligations pursuant to Section 4.09 to promptly execute and deliver to the Trustee a joinder to the Junior Lien Intercreditor ~~Agreements~~Agreement and a supplemental indenture substantially in the form of Exhibit ~~B~~E hereto pursuant to which such Subsidiary shall become a Guarantor under this Article X and shall guarantee the Securities Obligations of the Company. Concurrently with the execution and delivery of such supplemental indenture, the Company shall deliver to the Trustee an Opinion of Counsel to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and that, subject to the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws relating to creditors' rights generally and to the principles of equity, whether considered in a proceeding at law or in equity, and subject to other then customary exceptions, the Guarantee of such Guarantor is a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms.

ARTICLE XI
COLLATERAL

Section 11.01 Collateral Documents.

(a) In order to secure the payment of the principal of, premium due in respect of, and interest on the Securities when due, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise and whether by the Company pursuant to the Securities or by the Guarantors pursuant to the Guarantees, the payment of all other Securities Obligations and the performance of all

other obligations of the Company and the Guarantors under this Indenture, the Securities, the Guarantees and the Collateral Documents, the Company and the Guarantors have on the Issue Date simultaneously with the execution and delivery of this Indenture entered into the Collateral Trust Agreement and other applicable Collateral Documents (excluding, for the avoidance of doubt, any Collateral Documents deliverable after the Issue Date in accordance with Section 4.08). Any Person which, after the Issue Date, becomes a Guarantor under this Indenture in accordance with the terms, conditions and provisions hereof, shall, upon becoming a Guarantor under this Indenture, become a party to each applicable Collateral Document in accordance with the terms, conditions and provisions thereof, including the Collateral Trust Agreement, with respect to the assets or property (other than Excluded Property) of such Person, if any, that secure the Securities Obligations of such Person. Each Holder, by accepting a Security, consents and agrees to all of the terms and provisions of the Collateral Documents, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, as the same may be amended, modified, supplemented, renewed, extended or replaced from time to time pursuant to the terms of the Collateral Documents, the Collateral Trust Agreement, the Junior Lien Intercreditor Agreement and this Indenture, and authorizes and directs the Trustee to enter into, or instruct the Collateral Trustee to enter into, the Collateral Documents, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, on its behalf and on behalf of such Holder, to appoint the Collateral Trustee to serve as collateral trustee and representative of the Trustee and such Holder thereunder and in accordance therewith and for each of the Trustee and the Collateral Trustee to perform its obligations and exercise its rights thereunder and in accordance therewith. In addition, each Holder further acknowledges and agrees that the Trustee is not required to, and shall not, take any action requested by a Holder under, in respect of or otherwise in connection with any Collateral Document, including the Collateral Trust Agreement and the Junior Lien Intercreditor Agreement, including, without limitation, instructing the Collateral Trustee to enforce any of the Collateral Documents or the Collateral Trust Agreement, unless the requisite Holders have properly instructed the Trustee in accordance with the terms of this Indenture, and the Trustee shall suffer no liability for not acting in the absence of any such instructions. The Company shall promptly deliver to the Trustee copies of all documents delivered to the Collateral Trustee pursuant to the terms, conditions and provisions of the Collateral Documents, including the Collateral Trust Agreement, and shall do or cause to be done all such acts and things as may be necessary, or as may be required by the applicable terms and provisions of the Collateral Documents, including the Collateral Trust Agreement, to assure and confirm to the Trustee and the Collateral Trustee the Liens on and security interests in the Collateral contemplated by this Indenture and the Collateral Documents, including the Collateral Trust Agreement, or any part hereof or thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Securities and Guarantees secured thereby, according to the intent and purposes herein and therein expressed. The Company and each Guarantor shall promptly take, and upon the written request of the Collateral Trustee or, during the continuance of an Event of Default, the Trustee (to the extent the Trustee is permitted to make such request under the Collateral Trust Agreement or the other Collateral Documents), the Company and

each Guarantor shall promptly take, any and all actions required to cause the Collateral Documents to create and maintain, as security for the Securities Obligations, a valid and perfected ~~second priority or~~ third priority ~~(only with respect to Collateral as to which the Bank Group Representative has a second priority Lien on the Collateral)~~ Lien (in each case, subject only to Permitted Liens) on and security interest in all of the Collateral, in favor of the Collateral Trustee for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement). The Collateral Trustee and the Trustee shall have no obligation to make any such request and shall have no obligation to create, maintain, perfect or continue the perfection of any Lien on any of the Collateral (including, but not limited to, the filing of UCC financing or continuation statements).

Any Collateral held by the Collateral Trustee or any co-trustee or separate agent (as permitted in the Collateral Trust Agreement or the applicable Collateral Documents) for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) shall constitute Collateral for purposes of this Indenture.

(b) Consistent with the definition of Excluded Property,

(i) the Capital Stock and other securities of the Subsidiaries of the Company that are owned by the Company or any Guarantor will constitute Collateral only to the extent that such Capital Stock and other securities can secure the Securities without Rule 3-16 of Regulation S-X under the Securities Act ("Rule 3-16") (or any other law, rule or regulation) requiring separate financial statements of such Subsidiary to be filed with the SEC (or any other governmental agency);

(ii) in the event that Rule 3-16 (or any other law, rule or regulation) requires or is amended, modified or interpreted by the SEC to require (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would require) the filing with the SEC (or any other governmental agency) of separate financial statements of any Subsidiary (other than the Company) due to the fact that such Subsidiary's Capital Stock and other securities secure the Securities Obligations, the performance of all other Obligations of the Company or any Guarantor, then the Capital Stock and other securities of such Subsidiary shall automatically be deemed not to be part of the Collateral, but only to the extent necessary to not be subject to such requirement (and, in such event, the Collateral Documents may be amended or modified, without the consent of any Holder of the Securities, to the extent necessary to release the security interests in the shares of Capital Stock and other securities that are so deemed to no longer constitute part of the Collateral); and

(iii) in the event that Rule 3-16 (or any other law, rule or regulation) is amended, modified or interpreted by the SEC to permit (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would permit) such Subsidiary's Capital Stock and other securities to secure the Securities Obligations in excess of the amount then pledged without the filing

with the SEC (or any other governmental agency) of separate financial statements of such Subsidiary, then the Capital Stock and other securities of such Subsidiary shall automatically be deemed to be a part of the Collateral but only to the extent necessary to not be subject to any such financial statement requirement (and, in such event, the Collateral Documents may be amended or modified, without the consent of any Holder of the Securities, to the extent necessary to subject to the Liens under the Collateral Documents such additional Capital Stock and other securities).

Section 11.02 Suits to Protect Collateral.

Subject to the terms, conditions and provisions of Article VII, the Trustee may, subject to the terms, conditions and provisions of the Collateral Trust Agreement and the other Collateral Documents, (i) in its sole discretion (it having no obligation to do so) during the continuance of an Event of Default and without the consent of the Holders of Securities or (ii) upon the direction of Holders pursuant to Section 6.05, direct, on behalf of all the Holders of the Securities, the Collateral Trustee to take all actions it deems necessary or appropriate in order to enforce any of the terms of the Collateral Trust Agreement and the other Collateral Documents and collect and receive any and all amounts payable in respect of the obligations of the Company and the Guarantors under this Indenture, the Securities and the Guarantees thereof. Subject to the provisions of the Collateral Trust Agreement and the other Collateral Documents, each of the Trustee and the Collateral Trustee shall have power 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 any of the Collateral Trust Agreement, the other Collateral Documents or this Indenture, and such suits and proceedings as the Trustee or the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Trustee, the Collateral Trustee and the Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the Lien and security interest created by this Indenture, the Collateral Trust Agreement and the Collateral Documents or be prejudicial to the interests of the Holders or the Trustee).

Section 11.03 Determinations Relating to Collateral.

In the event (i) a Responsible Officer of the Trustee shall be deemed to have notice of any written request from the Company or any Guarantor under any Collateral Document or from any party to the Collateral Trust Agreement for consent or approval with respect to any matter or thing relating to any Collateral or the Company's or any Guarantor's obligations with respect thereto, or (ii) the Trustee shall deliver to the Collateral Trustee a Notice of Acceleration or Notice of Cancellation (as each of such terms is defined in the Collateral Trust Agreement), or a Notice of Acceleration shall be deemed to be in effect based on the occurrence of an Event of Default under Section 6.01(h) or Section 6.01(i) hereof and the Trustee shall deliver to the Collateral Trustee notice that any such Event of Default shall have occurred, then, in each such event, in addition to its obligations pursuant to Section 7.05, the

Trustee shall, within five Business Days, provide notice to the Holders, in writing and at the Company's expense, reciting the matter or thing as to which consent has been requested or notice was required to be delivered. The Holders pursuant to Section 6.05 shall have the authority to direct the Trustee's response to any of the circumstances contemplated in clauses (i) and (ii) above. The Trustee may respond to any of the circumstances contemplated by this Section 11.03, but shall not be required to respond unless it shall have received written authority by Holders pursuant to Section 6.05, and the requirements of Article VII, including but not limited to the Trustee's rights to indemnity and for provision for its fees and expenses as set forth therein, are otherwise satisfied; *provided* that the Trustee shall be entitled to hire experts, consultants, agents and attorneys to advise the Trustee on the manner in which the Trustee should respond to such request or render any requested performance or response to such nonperformance or breach (the expenses of which shall be reimbursed to the Trustee by the Company in accordance with the terms of Section 7.07 hereunder). The Trustee shall be fully protected in the taking of any action recommended or approved by any such expert, consultant, agent or attorney.

Section 11.04 Possession, Use and Release of Collateral.

Each Holder, by accepting a Security, consents and agrees to the provisions of the Collateral Documents governing the Collateral, including the possession, use and release of Collateral, and, without limiting the generality of the foregoing, each Holder, by accepting a Security, agrees and consents that Collateral may, and, as applicable, shall, be released or substituted only in accordance with the terms of this Indenture, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and the other Collateral Documents.

Section 11.05 Filing, Recording and Opinions.

(a) The Company shall furnish to the Trustee and the Collateral ~~Agent~~Trustee on or within 120 days following the end of its fiscal year, an Officer's Certificate either (A) stating that such action has been taken with respect to the recording, filing, re-recording and refiling of Liens under the Collateral Documents on Article 9 Collateral as is necessary to maintain the perfection of such Liens, and reciting the details of such action or (B) stating that no such action is necessary to maintain the perfection of such Liens. For purposes of the foregoing, the term "Article 9 Collateral" shall mean Collateral with respect to which a Lien thereon may be perfected by the filing of a UCC-1 financing statement pursuant to the Uniform Commercial Code as adopted in the jurisdiction of organization of the Company or the applicable Guarantor.

(b) In the event this Indenture is qualified under the TIA, the Company will comply with the provisions of TIA Section 314(c), and shall comply with the provisions of Sections 314(b) and 314(d) except to the extent in whole or in part such compliance is not required as set forth in any SEC regulation or interpretation (including any no-action letter or exemptive order issued by the staff of the SEC, whether issued to the Company or any other Person).

Any release of Collateral permitted by Section 11.04 hereof will be deemed not to impair the Liens under this Indenture and the Collateral Documents in contravention thereof and any Person that is required to deliver an Officers' Certificate or Opinion of Counsel pursuant to Section 314(d) of the TIA, shall be entitled to rely upon the foregoing as a basis for delivery of such certificate or opinion. The Trustee may, to the extent permitted by Section 7.01 and Section 7.02 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in such documents and Opinion of Counsel.

(c) If any Collateral is released in accordance with this Indenture, the Collateral Trust Agreement and the other Collateral Documents and if the Company has delivered the certificates and documents required hereby and by the Collateral Documents, then, based on an Officers' Certificate and Opinion of Counsel delivered pursuant hereto, the Trustee will, upon request, deliver a certificate to the Collateral Trustee setting forth such determination.

Section 11.06 Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XI, the Collateral Trust Agreement and the other Collateral Documents upon the Company or the Guarantors with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or a Guarantor or of any officer or officers thereof required by the provisions of this Article XI.

Section 11.07 Release Upon Termination of the Company's Obligations. In the event (i) that the Company delivers to the Trustee an Officers' Certificate and Opinion of Counsel certifying that all the Securities Obligations (other than contingent obligations for which no claim has been made) have been satisfied and discharged by the payment in full of such Securities Obligations (other than contingent obligations for which no claim has been made) and all such Securities Obligations (other than contingent obligations for which no claim has been made) have been so satisfied, or (ii) a discharge of this Indenture occurs under Article VIII, the Company and the Trustee shall deliver to the Collateral Trustee a notice stating that the Securities Obligations have been satisfied and discharged in accordance with the terms of this Indenture and that the Trustee, on behalf of the Holders, disclaims and gives up any and all rights it has in or to the Collateral, and any rights it has under the Collateral Documents, and upon receipt by the Collateral Trustee of such notice from an Officer of the Company, the Securities Obligations shall no longer be secured by the Collateral.

Section 11.08 ~~Senior Priority~~Junior Lien Intercreditor Agreement . ~~The Liens on the~~Notwithstanding anything to the contrary herein or in any Security or Collateral Document, the priority of the Liens securing the Securities Obligations ~~are subordinated to the senior priority Liens on the Collateral securing the Priority Lien Obligations, in the manner and to the extent provided in the Senior Priority~~and the exercise of rights and remedies of the Trustee, the Collateral Trustee and any Securityholder hereunder and under any Collateral Document are subject to the provisions of, the Junior Lien Intercreditor Agreement. ~~If there is a~~ In the event of any conflict between the terms of the ~~Senior Priority~~Junior Lien Intercreditor Agreement and the terms of this Indenture, any Security or any other Collateral Document

with respect to the priority of any Liens granted to the Collateral Trustee or the exercise of any rights and remedies of the Trustee, the Collateral Trustee or any Securityholder, the terms of the ~~Senior Priority~~Junior Lien Intercreditor Agreement ~~will control~~shall govern.

Section 11.09 Matters Relating to Collateral Trust Agreement.

Each Holder agrees that it will be bound by, and shall take no actions contrary to, the provisions of the Collateral Trust Agreement and authorizes and directs the Trustee to enter into, or instruct the Collateral Trustee to enter into, the Collateral Trust Agreement and act on its behalf to the extent set forth in the Collateral Trust Agreement and the other Collateral Documents. The Holders acknowledge the Collateral Trust Agreement provides for the allocation of proceeds of and value of the Collateral among the Secured Parties (as defined in the Collateral Trust Agreement) as set forth therein and contains limits on the ability of the Trustee and the Holders to take remedial actions with respect to the Collateral. The Holders acknowledge that the Securities Obligations (as defined in the Collateral Trust Agreement) are secured by the Collateral on a *pari passu* basis to the extent set forth in the Collateral Trust Agreement and the other Collateral Documents.

Until the termination of the Collateral Trust Agreement in accordance with the terms thereof, the Company will cause to be clearly, conspicuously and prominently inserted on the face of each Security a legend in the following form:

> THIS SECURITY AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBJECT TO AND IN THE MANNER AND TO THE EXTENT SET FORTH IN, THAT CERTAIN COLLATERAL TRUST AGREEMENT DATED AS OF ~~[~~ ~~]~~DECEMBER 18, 2013 AMONG, INTER ALIOS, PATRIOT COAL CORPORATION AND ~~[~~ ~~]~~U.S. BANK NATIONAL ASSOCIATION, AS COLLATERAL TRUSTEE, AND EACH HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE COLLATERAL TRUST AGREEMENT.

The Company shall promptly notify the Trustee of the occurrence of the termination of the Collateral Trust Agreement.

ARTICLE XII
MISCELLANEOUS

Section 12.01 Trust Indenture Act ~~Controls~~. In the event this Indenture is qualified under the TIA, if any provision of this Indenture limits, qualifies, or conflicts with another provision which would be required to be included in this Indenture by the TIA, the required provision shall control.

Section 12.02 Notices. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in person or mailed by first-class mail,

postage prepaid, addressed as follows, or transmitted electronically or by facsimile transmission (confirmed orally) to the following addresses:

if to the Company or the Guarantors, to:

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141
Attn: Bennett K. Hatfield, Chief Executive Officer

if to the Trustee or Collateral Trustee, to:

U.S. Bank National Association
333 Commerce Street, Suite 800
Nashville, Tennessee 37201
Attention: Global Corporate Trust Services
Facsimile No.: (615) 251-0737
Email: wally.jones@usbank.com

For delivery of Securities only, to:

U.S. Bank National Association
Global Corporate Trust Services
60 Livingston Avenue
1st Fl. - Bond Drop Window
St. Paul, Minnesota 55107

The Company or the Trustee by notice given to the other in the manner provided above may designate additional or different addresses for subsequent notices or communications.

Any notice or communication given to a Securityholder shall be delivered electronically or mailed to the Securityholder, by first-class mail, postage prepaid, at the Securityholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to deliver or mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company delivers or mails a notice or communication to the Securityholders, it shall mail a copy to the Trustee and each Registrar, Paying Agent or co-registrar.

Anything herein to the contrary notwithstanding, any notice or communication to the Trustee will not be effective or be deemed to have been duly given unless and until such

notice or communication is actually received by the Trustee at the Corporate Trust Office of the Trustee.

The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent electronically or by facsimile by Persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company. The Trustee shall have no duty or obligation to verify or confirm that the Person who sent such instructions or directions is, in fact, a Person authorized to give instructions or directions on behalf of the Company, and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company as a result of such reliance upon or compliance with such instructions or directions. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 12.03 Communication by Holders with Other Holders. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar, the Paying Agent and anyone else shall have the protection of TIA Section 312(c).

Section 12.04 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.05 Statements Required in Certificate or Opinion. Each Officers' Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that each Person making such Officers' Certificate or Opinion of Counsel 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 in such Officers' Certificate or Opinion of Counsel are based;

(c) a statement that, in the opinion of each such Person, he, she or it, as the case may be, has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement that, in the opinion of such Person, such covenant or condition has been complied with.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such eligible and qualified Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable case should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating the information on which counsel is relying unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 12.06 Separability Clause. In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.07 Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Registrar and the Paying Agent may make reasonable rules for their functions.

Section 12.08 Legal Holidays. A "Legal Holiday" is any day other than a Business Day. If any specified date (including a date for giving notice) is a Legal Holiday, the action shall be taken on the next succeeding day that is not a Legal Holiday, and, if the action to be taken on such date is a payment in respect of the Securities, no interest shall accrue for the intervening period.

Section 12.09 GOVERNING LAW; WAIVER OF JURY TRIAL. THIS INDENTURE, THE SECURITIES AND THE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING NEW YORK GENERAL OBLIGATION LAW §5-1401 AND ANY SUCCESSOR THERETO). EACH PARTY HERETO, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE, THE SECURITIES OR

GUARANTEES OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

Section 12.10 Jurisdiction; Consent to Service of Process. (a) Each of the Company and the Guarantors hereby irrevocably and unconditionally submits, for each of them and their property, to the general jurisdiction of the New York State courts or the federal courts of the United States of America for the Southern District of New York, in each case sitting in the Borough of Manhattan, City of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Indenture, the Securities or the Guarantees, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other or in any other manner provided by law. Nothing in this Indenture shall affect any right that any Holder may otherwise have to bring any action or proceeding relating to this Indenture, the Securities and the Guarantees against the Company, the Guarantors or their respective properties in the courts of any jurisdiction.

(b) Each of the Company and the Guarantors hereby irrevocably and unconditionally waives, and agrees not to plea or claim, to the fullest extent they may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Indenture, the Securities or the Guarantees in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 12.11 No Recourse Against Others. A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Securityholder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Securities.

Section 12.12 Successors. All agreements of the Company and each Guarantor in this Indenture and the Securities shall bind its successor. All agreements of the Trustee in this Indenture shall bind its successor, subject to Section 7.07.

Section 12.13 Counterparts; Multiple Originals. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of the signature pages hereto by facsimile or electronic mail transmission of portable document format (PDF) files or tagged image file format (TIF) files shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties transmitted by facsimile or

electronic mail of portable document format (PDF) files or tagged image file format (TIF) files shall be deemed to be their original signatures for all purposes.

Section 12.14 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 12.15 U.S.A. PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each Person that establishes a relationship or opens an account with the Trustee. The Company and each Guarantor agrees it will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. PATRIOT Act.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Indenture on behalf of the respective parties hereto as of the date first above written.

COMPANY:

PATRIOT COAL CORPORATION

By:_____
Name:
Title:

GUARANTORS:

APPALACHIA MINE SERVICES, LLC

BEAVER DAM COAL COMPANY, LLC
BIG EAGLE, LLC
BIG EAGLE RAIL, LLC
BLACK STALLION COAL COMPANY, LLC
BLUEGRASS MINE SERVICES, LLC

BRODY MINING, LLC

BROOK TROUT COAL, LLC

CATENARY COAL COMPANY, LLC

CENTRAL STATES COAL RESERVES OF KENTUCKY, LLC
CLEATON COAL COMPANY
COAL CLEAN LLC
COAL PROPERTIES, LLC
COAL RESERVE HOLDING LIMITED LIABILITY COMPANY NO. 2

COOK MOUNTAIN COAL COMPANY, LLC
CORYDON RESOURCES LLC

COVENTRY MINING SERVICES, LLC

COYOTE COAL COMPANY LLC

CUB BRANCH COAL COMPANY LLC

DIXON MINING COMPANY, LLC

DODGE HILL HOLDING JV, LLC

DODGE HILL MINING COMPANY, LLC
DODGE HILL OF KENTUCKY, LLC

EASTERN COAL COMPANY, LLC

EASTERN ROYALTY, LLC
EMERALD PROCESSING, L.L.C.

GRAND EAGLE MINING, LLC

HILLSIDE MINING COMPANY

INDIAN HILL COMPANY LLC

INFINITY COAL SALES, LLC

INTERIOR HOLDINGS, LLC
IO COAL LLC
JUPITER HOLDINGS LLC
KANAWHA EAGLE COAL, LLC

KANAWHA RIVER VENTURES I, LLC

KANAWHA RIVER VENTURES II, LLC
KANAWHA RIVER VENTURES III, LLC
KE VENTURES, LLC
LITTLE CREEK LLC
LOGAN FORK COAL COMPANY

MAGNUM COAL COMPANY LLC

MAGNUM COAL SALES LLC

MIDLAND TRAIL ENERGY LLC

MIDWEST COAL RESOURCES II, LLC

NEWTOWN ENERGY, INC.
NEW TROUT COAL HOLDINGS II, LLC
NORTH PAGE COAL CORP.
OHIO COUNTY COAL COMPANY, LLC
PANTHER LLC
PATRIOT BEAVER DAM HOLDINGS, LLC
PATRIOT COAL COMPANY, L.P.

PATRIOT COAL SALES LLC

PATRIOT COAL SERVICES LLC

PATRIOT LEASING COMPANY LLC

PATRIOT MIDWEST HOLDINGS, LLC

PATRIOT RESERVE HOLDINGS, LLC

PATRIOT TRADING LLC
PATRIOT VENTURES LLC
PCX ENTERPRISES, INC.
POND CREEK LAND RESOURCES, LLC
POND FORK PROCESSING LLC

REMINGTON HOLDINGS LLC

REMINGTON II LLC
REMINGTON LLC

RHINO EASTERN JV HOLDING COMPANY LLC
ROBIN LAND COMPANY, LLC

SENTRY MINING, LLC
SNOWBERRY LAND COMPANY

SPEED MINING LLC
TC SALES COMPANY, LLC

THE PRESIDENTS ENERGY COMPANY LLC
THUNDERHILL COAL LLC

TROUT COAL HOLDINGS, LLC

UNION COUNTY COAL CO., LLC

VIPER LLC
WEATHERBY PROCESSING LLC

WILDCAT, LLC
WILDCAT ENERGY LLC
WILL SCARLET PROPERTIES LLC

WINCHESTER LLC
WINIFREDE DOCK LIMITED LIABILITY COMPANY

WWMV JV HOLDING COMPANY LLC

as Guarantors

Executing this Indenture as an authorized officer of each of the 82 foregoing entities on behalf of and so as to bind the entities named above under the caption "Guarantors"

By: _____
Name:
Title:

ADDITIONAL GUARANTORS:

AFFINITY MINING COMPANY
APOGEE COAL COMPANY, LLC
BLACK WALNUT COAL COMPANY
CHARLES COAL COMPANY, LLC
COLONY BAY COAL COMPANY
DAKOTA LLC
DAY LLC
EASTERN ASSOCIATED COAL, LLC
GATEWAY EAGLE COAL COMPANY, LLC
HERITAGE COAL COMPANY LLC
HIGHLAND MINING COMPANY, LLC
HOBET MINING, LLC
JARRELL'S BRANCH COAL COMPANY
MARTINKA COAL COMPANY, LLC
MOUNTAIN VIEW COAL COMPANY, LLC
PINE RIDGE COAL COMPANY, LLC
RIVERS EDGE MINING, INC.
STERLING SMOKELESS COAL COMPANY, LLC
YANKEETOWN DOCK, LLC

as Guarantors

Executing this Indenture as an authorized officer of each of the 19 foregoing entities on behalf of and so as to bind the entities named above as "Guarantors"

By: _____

Name:
Title:

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:_____
Name:
Title:

Schedule A

For the six month periods ending on the dates set forth below following the Issue Date:

Repurchase Period	**Percentage**
~~[~~June 18, 2014	315%
~~[~~December 18, 2014	298%
~~[~~June 18, 2015	281%
~~[~~December 18, 2015	265%
~~[~~June 18, 2016	251%
~~[~~December 18, 2016	237%
~~[~~June 18, 2017	223%
~~[~~December 18, 2017	211%
~~[~~June 18, 2018	199%
~~[~~December 18, 2018	188%
~~[~~June 18, 2019	178%
~~[~~December 18, 2019	168%
~~[~~June 18, 2020	158%
~~[~~December 18, 2020	149%
~~[~~June 18, 2021	141%
~~[~~December 18, 2021	133%
~~[~~June 18, 2022	126%
~~[~~December 18, 2022	119%
~~[~~June 18, 2023	112%
~~[~~December 15, 2023	106%

EXHIBIT A

[FORM OF FACE OF SECURITY]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN. TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY AND THE RIGHTS AND OBLIGATIONS EVIDENCED HEREBY ARE SUBJECT TO AND IN THE MANNER AND TO THE EXTENT SET FORTH IN, THAT CERTAIN COLLATERAL TRUST AGREEMENT DATED AS OF ~~[~~ ~~]~~DECEMBER 18, 2013 AMONG, INTER ALIOS, PATRIOT COAL CORPORATION AND ~~[~~ ~~]~~U.S. BANK NATIONAL ASSOCIATION, AS COLLATERAL TRUSTEE, AND EACH HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, IRREVOCABLY AGREES TO BE BOUND BY THE PROVISIONS OF THE COLLATERAL TRUST AGREEMENT.

[GLOBAL SECURITY LEGEND]

THIS GLOBAL SECURITY IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS SECURITY) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO Section 2.06(g) OF THE INDENTURE, (II) THIS GLOBAL SECURITY MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO ~~Section~~SECTION 2.06(~~a~~A) OF THE INDENTURE, (III) THIS GLOBAL SECURITY MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO ~~Section~~SECTION 2.10 OF THE INDENTURE AND (IV) THIS GLOBAL SECURITY MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY

OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

[PRIVATE PLACEMENT LEGEND]

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (5) PURSUANT TO ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED ON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

[REGULATION S TEMPORARY GLOBAL SECURITY LEGEND]

THIS GLOBAL SECURITY IS A TEMPORARY GLOBAL SECURITY FOR PURPOSES OF REGULATION S UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. NEITHER THIS TEMPORARY GLOBAL SECURITY NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD OR DELIVERED, EXCEPT AS PERMITTED UNDER THE INDENTURE REFERRED TO BELOW.

NO BENEFICIAL OWNERS OF THIS TEMPORARY GLOBAL SECURITY SHALL BE ENTITLED TO RECEIVE PAYMENT OF PRINCIPAL OR INTEREST HEREON UNLESS THE REQUIRED CERTIFICATIONS HAVE BEEN DELIVERED PURSUANT TO THE TERMS OF THE INDENTURE.

[OID LEGEND]

THIS SECURITY HAS BEEN ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") FOR PURPOSES OF SECTIONS 1271 ET SEQ. OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE ISSUE DATE OF THIS SECURITY IS [ ]DECEMBER 18, 2013. FOR INFORMATION REGARDING THE ISSUE PRICE, THE YIELD TO MATURITY AND THE AMOUNT OF OID PER $1,000 OF PRINCIPAL AMOUNT, PLEASE CONTACT THE COMPANY AT PATRIOT COAL CORPORATION, 12312 OLIVE BOULEVARD, SUITE 400, ST. LOUIS, MISSOURI 63141, ATTENTION: CHIEF FINANCIAL OFFICER.

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

No.: [ ] CUSIP:

Issue Date: [~~]~~December 18, 2013 Principal Amount: $[ ]

PATRIOT COAL CORPORATION, a Delaware corporation, promises to pay to [ ][1] or registered assigns, the Principal Amount [of [ ] Dollars ($[ ])][as set forth on Schedule I hereto][2], on December 15, 2023 (the "Stated Maturity"), subject to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Interest Payment Dates: June 15 and December 15, commencing June 15, ~~2013~~2014

Record Dates: June 1 and December 1.

PATRIOT COAL CORPORATION

By:_____
Name:_____
Title:_____

[1] Insert "Cede & Co." for Global Securities.

[2] Insert latter bracketed language for Global Securities.

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

Dated:_____

[FORM OF REVERSE SIDE OF SECURITY]

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

(1) Interest.

This Security shall accrue interest at an initial rate of 15.0% per annum. The Company promises to pay interest on the Securities entirely by (i) paying cash ("Cash Interest") or (ii) by increasing the principal amount of the outstanding Securities or by issuing PIK Securities ("PIK Interest") semiannually on each June 15 and December 15, commencing June 15, 2014, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "interest payment date"). Interest on the Securities will accrue from the most recent date to which interest has been paid, or if no interest has been paid, from December 18, ~~20~~ 2013, until the Principal Amount is paid or duly made available for payment. The Company will pay interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) on any overdue Principal Amount ~~[~~or the Acceleration Premium~~]~~ at the interest rate borne by the Securities at the time such interest on the overdue Principal Amount accrues, compounded semiannually, and it shall pay interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) on overdue installments of premium, interest at the same interest rate compounded semiannually, in each case, in cash. Interest on the Securities will be computed on the basis of a 360-day year comprised of twelve 30-day months.

With respect to interest on the Securities for a semi-annual period due on an interest payment date, the Company may elect, at its option, to pay interest due on the Securities on such interest payment date (i) entirely in cash at the rate of 15.0% per annum ("Cash Interest Payment") or (ii) entirely in PIK Interest at the rate of 15.0% per annum ("PIK Interest Payment"). In order to elect to pay ~~cash interest on any Interest Payment Date~~Cash Interest on any interest payment date, the Company must deliver a notice of its election to the Trustee no later than 15 days prior to any interest payment date (the "Cash Election Deadline") specifying that it is electing a Cash Interest Payment (and if the Company does not deliver such notice on or prior to the Cash Election Deadline, then a PIK Interest Payment shall be made on such ~~Interest Payment Date~~interest payment date).

PIK Interest on the Securities will be payable in the manner set forth in Section 2.14 of the Indenture. Following an increase in the Principal Amount of the outstanding Global Securities as a result of the payment of PIK Interest, the Global Securities will bear interest on such increased Principal Amount from and after the date of such payment. Any PIK Securities issued in certificated form or as new Global Securities will be dated as of the applicable interest payment date and will bear interest from and after such date. All PIK Securities issued will mature on ~~[_____]~~December 15, 2023 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the

same rights and benefits as the Securities issued on the Issue Date. Any certificated PIK Securities will be issued with the description "PIK" on the face of such PIK Security.

(2) Method of Payment.

PIK Interest shall be paid in the manner provided in paragraph 1. Any payment of PIK Interest shall be considered paid on the date it is due if on such date (1) if PIK Securities (including PIK Securities that are Global Securities) have been issued therefor, such PIK Securities have been authenticated in accordance with the terms of the Indenture and (2) if the payment is made by increasing the Principal Amount of Global Securities then authenticated, the Trustee has increased the Principal Amount of Global Securities then authenticated by the relevant amount.

The Company will pay interest on this Security (except defaulted interest) to the Person who is the registered Holder of this Security at the close of business on June 1 or December 1, as the case may be, next preceding the related interest payment date. Subject to the terms and conditions of the Indenture, the Company will make payments in respect of Principal Amount and premium, if any, to the Holder who surrenders a Security to the Paying Agent with respect to payments in cash in respect of the Principal Amount or premium, if any. The Company will pay all cash amounts due on the Securities in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay interest and the Principal Amount and premium, if any, to the extent such amounts are permitted by the terms of this Security and the Indenture to be paid in cash, by check or wire payable in such money; *provided, however*, that a Holder holding Securities with an aggregate Principal Amount in excess of $1,000,000 will be paid by wire transfer in immediately available funds at the election of such Holder. The Company may mail an interest check for the payment of cash interest to the Holder's registered address. Notwithstanding the foregoing, so long as this Security is registered in the name of a Depositary or its nominee, all payments of cash hereon shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee.

(3) Paying Agent and Registrar.

Initially, U.S. Bank National Association, as Trustee (the "Trustee"), will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent or Registrar without notice, other than notice to the Trustee. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent or Registrar.

(4) Indenture.

The Company issued the Securities under an Indenture dated as of December 18, ~~20—~~2013 (as amended or supplemented from time to time in accordance with the terms thereof and of this Security, the "Indenture"), between the Company and the Trustee. The terms of the Securities include those stated in the Indenture and, in the event the Indenture is qualified under the Trust Indenture Act of 1939, as in effect from time to time (the "TIA"), those expressly made part of the Indenture by reference to the TIA. Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture. The

Securities are subject to all such terms, and Securityholders are referred to the Indenture and the TIA (to the extent the Indenture is qualified under the TIA and as applicable) for a statement of those terms.

The Securities will be secured by the Collateral on the terms and subject to the conditions set forth in the Indenture, the Junior Lien Intercreditor ~~Agreements~~Agreement and the other Collateral Documents, such security interests and Liens to have such priority as is set forth in the Indenture, the Junior Lien Intercreditor ~~Agreements~~Agreement and the other Collateral Documents. The Collateral Trustee shall hold the Collateral for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement), in each case pursuant to the Collateral Documents. Each Holder, by accepting this Security, consents and agrees to the matters set forth in Section 11.01 of the Indenture which relate to the Collateral Documents and the Collateral Trustee.

(5) No Redemption.

No sinking fund is provided for the Securities. The Company does not have the right to redeem the Securities.

(6) Ranking and Collateral

These Securities and the Guarantees will be secured by a Lien and security interest in the Collateral on a Lien priority basis directly after, and immediately following, the Lien securing the ~~Bank Group~~Senior-Lien Obligations (and will be subject only to Permitted Liens), the foregoing pursuant to and in accordance with the terms of the Indenture, the ~~Senior Priority~~Junior Lien Intercreditor Agreement and other applicable Collateral Documents.

(7) [Reserved].

(8) Denominations; Transfer; Exchange.

The Securities are in fully registered form, without coupons, in minimum denominations of $1.00 of Principal Amount and integral multiples of $1.00 thereof. A Holder may transfer or exchange Securities in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

(9) Persons Deemed Owners.

The registered Holder of this Security may be treated as the owner of this Security for all purposes.

(10) Unclaimed Money or Securities.

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Securities that remains unclaimed for two years, subject to applicable unclaimed property law.

After return to the Company, Holders entitled to the money or securities must look to the Company, for payment as general creditors unless an applicable abandoned property law designates another Person.

(11) Amendment; Waiver.

The Indenture and this Security may be amended as provided in Article IX of the Indenture.

(12) Defaults and Remedies.

Events of Default are set forth in Article VI of the Indenture. Securityholders may not enforce the Indenture or the Securities except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Securities unless it receives indemnity or security satisfactory to the Trustee, in its sole discretion. Subject to certain limitations, Holders of a majority in aggregate Principal Amount of the Securities at the time outstanding may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Securityholders notice of any continuing Default (except as otherwise provided in the Indenture) if it determines that withholding notice is in their interests.

(13) Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA~~,~~ (in the event the Indenture is qualified thereunder), the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

(14) No Recourse Against Others.

A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Securityholder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Securities.

(15) Authentication.

This Security shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's Certificate of Authentication on the other side of this Security.

(16) Abbreviations.

Customary abbreviations may be used in the name of a Securityholder or an assignee, such as TEN COM ("tenants in common"), TENENT ("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").

(17) Governing Law.

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THIS SECURITY.

The Company will furnish to any Securityholder upon written request and without charge a copy of the Indenture which has in it the text of this Security in larger type. Requests may be made to:

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141
Attn.: Chief Financial Officer

ASSIGNMENT FORM

To assign this Security, fill in the form below: I or we assign and transfer this Security to:

_____

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

_____

_____

_____

_____

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

and irrevocably appoint:

_____

agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

SCHEDULE I[3]

SCHEDULE OF INCREASES OR DECREASES IN THE GLOBAL SECURITY*

PATRIOT COAL CORPORATION

15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

The initial outstanding principal amount of this Global Security is $_____. The following exchanges of a part of this Global Security for an interest in another Global Security or for a Certificated Security, or exchanges of a part of another Global or Certificated Security for an interest in this Global Security, or increase/decrease in the principal amount of this Global Security, have been made:

Date of Exchange or Increase/Decrease	Amount of decrease in Principal Amount of this Global Security	Amount of increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such decrease or increase	Signature of authorized officer of Trustee or Custodian

[3] To be included in Global Securities only.

EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U.S. Bank National Association, as trustee

333 Commerce Street, Suite 800[•]
Nashville, Tennessee 37201[•]
Attention: Global Corporate Trust Services[•]
~~Attention: [•]~~

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

Reference is hereby made to the Indenture, dated as of ~~[•]~~December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

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

[CHECK ALL THAT APPLY]

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

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

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

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

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

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

(d) such Transfer is being effected to an Accredited Investor or an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Security or Restricted Definitive Securities and the requirements of the exemption claimed, which

certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Securities at the time of transfer of less than $250,000 or if such Transfer is to an Accredited Investor that is not an Institutional Accredited Investor, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Security will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Securities and in the Indenture and the Securities Act.

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

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

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

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

Legend printed on the Restricted Global Securities or Restricted Definitive Securities and in the Indenture.

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

_____

[Insert Name of Transferor]

By: _____

Name: _____

Title: _____

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

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

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

(a) a beneficial interest in the:

(i) 144A Global Security (CUSIP _____), or

(ii) Regulation S Global Security (CUSIP _____), or

(iii) Accredited Investor Global Security (CUSIP _____), or

(b) a Restricted Definitive Security.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) a beneficial interest in the :

(i) 144A Global (CUSIP _____), or

(ii) Regulation S Global (CUSIP _____), or

(iii) Accredited Investor Global Security (CUSIP _____), or

(iv) Unrestricted Global Security (CUSIP _____), or

(b) a Restricted Definitive Security.

(c) an Unrestricted Definitive Security.

in accordance with the terms of the Indenture.

EXHIBIT C

FORM OF CERTIFICATE OF EXCHANGE

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U.S. Bank National Association, as trustee

333 Commerce Street, Suite 800[•]
Nashville, Tennessee 37201[•]
[•]
Attention: [Global Corporate Trust Services•]

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

(CUSIP [●])

Reference is hereby made to the Indenture, dated as of [●]December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the "Owner") owns and proposes to exchange the Security or Securities or interest in such Security or Securities specified herein, in the principal amount of $ in such Security or Securities or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. Exchange of Restricted Definitive Securities or Beneficial Interests in a Restricted Global Security for Unrestricted Definitive Securities or Beneficial Interests in an Unrestricted Global Security

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

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

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

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

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

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

Private Placement Legend printed on the Restricted Definitive Security and in the Indenture and the Securities Act.

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

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

_____

[Insert Name of Transferor]

By: _____

Name: _____

Title: _____

Dated: _____

EXHIBIT D

FORM OF CERTIFICATE FROM
ACQUIRING ~~INSTITUTIONAL~~ ACCREDITED INVESTOR

Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, Missouri 63141

U.S. Bank National Association, as trustee

333 Commerce Street, Suite 800[•]
Nashville, Tennessee 37201[•]
[•]
Attention: [Global Corporate Trust Services•]

Re: 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023

Reference is hereby made to the Indenture, dated as of [•]December 18, 2013 (the "Indenture"), between Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

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

(a) a beneficial interest in a Global Security, or

(b) a Definitive Security,

we confirm that:

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

2. We understand that the offer and sale of the Securities have not been registered under the Securities Act, and that the Securities and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Securities or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" or an "accredited investor" (each, as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a

U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Securities~~,~~ at the time of transfer of less than $250,000 or if such transfer is to an accredited investor that is not an institutional accredited investor, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Definitive Security or beneficial interest in a Global Security from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

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

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

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

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

_____

[Insert Name of ~~Transferor~~Transferee]

By: _____

Name: _____

Title: _____

Dated: _____

FORM OF NOTATION OF GUARANTEE

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, dated as of [•], 2013 (the "Indenture"), among Patriot Coal Corporation, as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association, as trustee (the "Trustee"), (a) the due and punctual payment of the principal of, premium, if any, and interest on the Securities (as defined in the Indenture), whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal and premium, and, to the extent permitted by law, interest, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Securities and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth in Article X of the Indenture and reference is hereby made to the Indenture for the precise terms of the Guarantee.

Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection. The obligations of each Guarantor under its Guarantee shall be limited to the extent necessary to insure that it does not constitute a fraudulent conveyance under applicable law.

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or the Guarantors under the Securities, the Guarantees and the Indenture, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities.

Capitalized terms used herein have the same meanings given in the Indenture unless otherwise indicated.

_____

[Insert Name of Guarantor]

By: _____

Name:

Title:

~~Dated:~~ _____

EXHIBIT ~~F~~E

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "SUPPLEMENTAL INDENTURE"), dated as of , among [GUARANTOR] (the "NEW GUARANTOR"), a subsidiary of Patriot Coal Corporation (or its successor), a Delaware corporation (the "COMPANY"), the Company, and U.S. Bank National Association, as trustee under the Indenture referred to below (together with its successors and assigns, in such capacity, the "TRUSTEE").

WITNESSETH:

WHEREAS, the Company has heretofore executed and delivered to the Trustee an Indenture (as such may be amended from time to time, the "INDENTURE"), dated as of ~~[_____]~~December 18, 2013, providing for the issuance of 15.0% Senior Secured Second Lien PIK Toggle Notes due 2023 (the "SECURITIES");

WHEREAS, Section 4.09 and Section 10.08 of the Indenture provide that the Company is required to cause the New Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which the New Guarantor shall jointly and severally and unconditionally and irrevocably guarantee all of the Company's Securities Obligations pursuant to a Guarantee contained in the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee, the Company and ~~Existing Guarantors~~the New Guarantor are authorized to execute and deliver this Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Guarantor, the Company~~, the Existing Guarantors~~ and the Trustee mutually covenant and agree for the equal and ratable benefit of the holders of the Securities as follows:

1. Definitions. (a) Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

(b) For all purposes of this Supplemental Indenture, except as otherwise herein expressly provided or unless the context otherwise requires: (i) the terms and expressions used herein shall have the same meanings as corresponding terms and expressions used in the Indenture; and (ii) the words "HEREIN," "HEREOF" and "HEREBY" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. Agreement to Guarantee. The New Guarantor hereby agrees, jointly and severally and unconditionally and irrevocably, with all other Guarantors, to guarantee the Company's Securities Obligations on the terms and subject to the conditions set forth in Article X of the Indenture and to be bound by all other applicable provisions of the Indenture.

From and after the date hereof, the New Guarantor shall be a Guarantor for all purposes under the Indenture and the Securities.

3. Ratification of Indenture; Supplemental Indentures Part of Indentures. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Securities heretofore or hereafter authenticated and delivered shall be bound hereby.

4. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. Trustee Makes No Representation. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture.

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

7. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

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

GUARANTORS:

[NEW GUARANTOR]

By:_____
Name:_____
Title:_____

COMPANY:

PATRIOT COAL CORPORATION

By:_____
Name:_____
Title:_____

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:_____
Name:_____
Title:_____