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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 22, 2022

CLEAN ENERGY FUELS CORP.
(Exact Name of Registrant as Specified in Charter)

Delaware	**001-33480**	**33-0968580**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

4675 MacArthur Court, Suite 800 **Newport Beach, CA** **(Address of Principal Executive Offices)**	**92660** **Zip Code**

(949) 437-1000
(Registrant's telephone number, including area code)

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

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

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

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

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

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common stock, $0.0001 par value per share	CLNE	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

On December 22, 2022 (the "Closing Date"), Clean Energy Fuels Corp. (the "Company") and its wholly-owned direct subsidiary Clean Energy ("Borrower") entered into that certain Senior Secured First Lien Term Loan Credit Agreement (the "Credit Agreement") with the lenders from time to time party thereto ("Lenders") and Riverstone Credit Management LLC, as the administrative agent for the Lenders and collateral agent for the secured parties ("Agent"), pursuant to which the Lenders funded a $150,000,000 senior secured term loan (the "Senior Term Loan"). The proceeds of the Senior Term Loan were or will be used to repay certain existing indebtedness of the Company, Borrower and their subsidiaries, to finance permitted investments from time to time, to pay transaction costs related to the Credit Agreement and for other general corporate purposes. All defined terms not otherwise defined herein shall have the meanings given such terms in the Credit Agreement. The Senior Term Loan matures on December 22, 2026 (the "Maturity Date"). The Senior Term Loan bears interest at (a) SOFR or (b) the greater of (i) the Prime Rate, (ii) the Federal Funds Effective Rate plus 0.50% , and (iii) the one-month SOFR rate (the "ABR Rate"), at the option of the Company, plus a margin of (x) 6.50% from Closing Date through the second anniversary of the Closing Date and 7.25% thereafter, each in the case of SOFR, and (y) 5.50% from Closing Date through the second anniversary of the Closing Date and 6.25% thereafter, each in the case of the ABR Rate, with a SOFR floor of 1.50% and an ABR Rate floor of 2.50%. The Borrower is also obligated to pay other customary facility fees for credit facilities of the similar size and type.

Borrower may elect to prepay all or any portion of the amounts owed prior to the Maturity Date. The Senior Term Loan is also subject to customary mandatory prepayments. Voluntary and mandatory prepayments and all other payments of the Senior Term Loan are subject to a call premium in the amount of 2% of the amount being prepaid from the one-year anniversary of the Closing Date to the date that is eighteen months after the Closing Date, 2.5% of the amount being prepaid after the date that is eighteen months after the Closing Date to the date that is twenty-four months after the Closing Date, and 3% of the amount being prepaid at any time thereafter. No call premium applies to any prepayment of the Senior Term Loan made prior to the first anniversary of the Closing Date. Pursuant to the Credit Agreement, the obligations of the Company and Borrower are guaranteed by certain of their subsidiaries that, on the Closing Date, together with the Company and Borrower, entered into a Guarantee and Collateral Agreement in favor of the Agent on behalf of secured parties (the "Security Agreement"). Pursuant to the Security Agreement, the Company and its subsidiaries party thereto granted the Agent a security interest in substantially all of its personal property, rights and assets to secure the payment of all amounts owed to secured parties under the Credit Agreement. Certain material subsidiaries of the Company will be required to join as a party to the Security Agreement from time to time after the Closing Date.

The Senior Term Loan requires the Borrower, the Company and their subsidiaries, on a consolidated basis, to comply with a maximum total leverage ratio, a minimum interest coverage ratio and a minimum liquidity test. In addition, the Senior Term Loan contains customary representations and warranties and affirmative and negative covenants, including covenants that limit or restrict the Company, the Borrower and their subsidiaries' ability to incur liens, incur indebtedness, dispose of assets, make investments, make certain restricted payments, merge or consolidate and enter into certain speculative hedging arrangements. The Senior Term Loan includes a number of events of default, including, among other things, non-payment defaults, covenant defaults, cross-defaults to other materials indebtedness, bankruptcy and insolvency defaults, material judgment defaults, and material breaches of material contracts. If any event of default occurs (subject, in certain instances, to specified grace periods), the principal, premium, if any, interest and any other monetary obligations on all the then outstanding amounts under the Senior Term Loan may become due and payable immediately.

The foregoing description of the Credit Agreement and the Security Agreement is qualified in its entirety by reference to the complete terms and conditions of the Credit Agreement and the Security Agreement, which are filed as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information contained in Item 1.01 of this Current Report on Form 8-K with respect to the Credit Agreement is incorporated herein by reference.

Item 8.01 Other Events.

On December 28, 2022, the Company issued a press release announcing the entry into the Credit Agreement which is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
10.1	Senior Secured First Lien Term Loan Credit Agreement dated December 22, 2022, among Clean Energy Fuels Corp, Clean Energy, the lenders from time to time party thereto, and Riverstone Credit Management LLC, as the administrative agent for the lenders and collateral agent for the secured parties.
10.2	Guarantee and Collateral Agreement dated December 22, 2022, among Clean Energy Fuels Corp, Clean Energy, and each of the other Grantors in favor of Riverstone Credit Management LLC, as collateral agent for the secured parties.
99.1	Press Released dated December 28, 2022.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURE

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

Date: December 28, 2022

CLEAN ENERGY FUELS CORP.

By: /s/ Andrew J. Littlefair
Name: Andrew J. Littlefair
Title: President and Chief Executive Officer

Exhibit 10.1

Execution Version

SENIOR SECURED FIRST LIEN TERM LOAN CREDIT AGREEMENT

dated as of December 22, 2022

among

CLEAN ENERGY,
as the Borrower,
CLEAN ENERGY FUELS CORP.,
as Parent,

the Lenders
from time to time party hereto,

and

RIVERSTONE CREDIT MANAGEMENT LLC,
as Administrative Agent and Collateral Agent

RIVERSTONE CREDIT PARTNERS II – DIRECT, L.P.,
as Sole Lead Arranger

RIVERSTONE CREDIT MANAGEMENT LLC,
as Sustainability-Linked Loan Coordinator

A Sustainability-Linked Loan following the Sustainability-Linked Principles

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ANNEXES, EXHIBITS AND SCHEDULES

SENIOR SECURED FIRST LIEN TERM LOAN CREDIT AGREEMENT, dated as of December 22, 2022 (this "Agreement"), among CLEAN ENERGY, a California corporation (the "Borrower"), CLEAN ENERGY FUELS CORP, a Delaware corporation (the "Parent"), the LENDERS from time to time party hereto, and RIVERSTONE CREDIT MANAGEMENT LLC, as the Administrative Agent for the Lenders and Collateral Agent for the Secured Parties.

R E C I T A L S

A. The Borrower has requested that the Lenders make Loans to the Borrower on the Closing Date in an aggregate principal amount of $150,000,000.

B. In order to develop, own and operate renewable natural gas projects and to produce and supply renewable natural gas for the transportation sector throughout the United States and Canada and for certain other purposes specified herein, the Borrower has requested that the Lenders extend, and the Lenders have agreed to make available to the Borrower, the Facilities provided for herein upon the terms and subject to the conditions set forth herein.

C. The Borrower desires to secure the Secured Obligations by granting to the Collateral Agent, for the benefit of the Secured Parties, a first-priority security interest in and continuing Lien upon all of its rights, title and interest in its property constituting Collateral, including the Equity Interests of certain of its Subsidiaries to the extent constituting Collateral.

D. The Borrower has determined that it is in its best interests and the best interests of its Subsidiaries to cause certain of its Subsidiaries to guarantee the Secured Obligations and to pledge and grant to the Collateral Agent, for the benefit of the Secured Parties, a first-priority security interest in and continuing Lien upon all of its rights, title and interest in its property constituting Collateral, provided that Permitted Liens may exist.

E. Parent directly owns 100% of the outstanding Equity Interests of the Borrower and has determined that it is in its best interests to guarantee the Secured Obligations and to pledge and grant to the Collateral Agent, for the benefit of the Secured Parties, a first-priority security interest in and continuing Lien upon all of its rights, title and interest in its property constituting Collateral, including the Equity Interests of the Borrower and each of its other Subsidiaries.

In consideration of the mutual covenants and agreements herein contained and of the loans, extensions of credit and commitments hereinafter referred to, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING MATTERS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"ABR Term SOFR Determination Day" has the meaning assigned to such term in the definition of "Term SOFR".

"Acceptable Remediation Plan" has the meaning assigned to such term in Section 10.01(j)(ii).

"Account" has the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Additional TotalEnergies JV Document" means each document entered into by or assigned to any Permitted Additional TotalEnergies JV after the Closing Date, including the Organizational Documents of such Permitted Additional TotalEnergies JV.

"Adjusted Term SOFR" means, for any Interest Period, the rate *per annum* equal to (a) Term SOFR for such Interest Period plus (b) the Term SOFR Adjustment; provided that, if the Adjusted Term SOFR as so determined shall ever be less than 1.50%, then the Adjusted Term SOFR shall be deemed to be 1.50%.

"Administrative Agent" means Riverstone Credit Management LLC, as the administrative agent for the Lenders under this Agreement and the other Loan Documents, or any successor administrative agent or administrative agent appointed in accordance with the provisions of Section 11.06.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affected Loans" has the meaning assigned to such term in Section 5.05.

"Affiliate" means, with respect to a specified Person, (a) another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified, (b) another Person that directly or indirectly owns or holds (i) ten percent (10.0%) or more of any class of Equity Interests with voting power in the specified Person or (ii) ten percent (10.0%) or more of the Equity Interests in the specified Person or (c) any officer, director, manager or partner of the specified Person. In no event shall any Riverstone Lender or any of its Affiliates be an Affiliate of Borrower and its Affiliates.

"AFTC" means federal alternative fuel excise tax credits.

"Agent" means the Administrative Agent or the Collateral Agent, as applicable, and "Agents" shall refer to both the Administrative Agent and the Collateral Agent, collectively.

"Agreement" has the meaning assigned to such term in the introductory paragraph hereto.

"Alternate Base Rate" means, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus one-half of 1.00% and (c) Adjusted Term SOFR for a one-month Interest Period in effect on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1.00%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Term SOFR shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Term SOFR, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 3.03, then the Alternate Base Rate shall be the greater of clause (a) and clause (b) above and shall be determined without reference to clause (c) above. If the Alternate Base Rate as determined above shall be less than 2.50%, such rate shall be deemed to be 2.50% for purposes of this Agreement.

"Amazon" means Amazon.com, Inc.

"Amazon Agreements" means each of (a) the Amazon Fuel Agreement, (b) the Amazon Transaction Agreement and (c) the Amazon Warrant.

"Amazon Fuel Agreement" means, collectively, the Fuel Pricing Agreement, effective as of January 15, 2021 and the Project Addendum to Fuel Pricing Agreement, dated as of April 16, 2021, in each case, between Clean Energy and Amazon Logistics, Inc.

"Amazon Transaction Agreement" means the Transaction Agreement, dated as of April 16, 2021, between CLNE and Amazon.

"Amazon Warrant" means the Warrant to Purchase Common Stock of Clean Energy Fuels Corp., dated as of April 16, 2021, between CLNE and Amazon.com NV Investment Holdings, LLC.

"AML Laws" means all laws, rules and regulations of any jurisdiction applicable to any Lender, Parent, the Borrower or any of their Subsidiaries from time to time concerning or relating to anti-money laundering.

"Annual Budget" means the annual operating budget, substantially in the form of Exhibit K or such other form approved by the Administrative Agent, prepared and delivered by the Borrower pursuant to Section 6.01(m)(ii) or Section 8.01(k), as applicable.

"Anti-Corruption Laws" means all laws, rules and regulations of any jurisdiction applicable to Parent, the Borrower or any of their Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the FCPA and any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

"Applicable Margin" means, for any day, with respect to any ABR Loan or Term SOFR Loan, a rate *per annum* set forth below:

Period	Term SOFR Loans	ABR Loans
From the Closing Date to but excluding June 22, 2024	6.50%	5.50%
Thereafter	7.25%	6.25%

It is hereby understood and agreed that the Applicable Margin with respect to ABR Loans and Term SOFR Loans may be increased based upon the Sustainability Rate Adjustment (to be calculated and applied as set forth in Section 5.07).

"Applicable Percentage" means, with respect to any Lender at any time, the percentage which such Lender's Commitment at such time then constitutes of the aggregate Commitments of all Lenders at such time or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender's outstanding Loans at such time then constitutes of the aggregate principal amount of all outstanding Loans of all Lenders at such time.

"Approved Fund" means any Person (other than a natural person) that is primarily engaged in making, purchasing, holding or investing in loans, private placements and similar extensions of credit in the ordinary course of its business and any investment fund or asset manager that is administered, advised, sub-advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 12.04(b)), and accepted by the Administrative Agent, in the form of Exhibit H or any other form approved by the Administrative Agent and, if applicable, the Borrower.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy", as now and hereafter in effect, or any successor statute.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time.

"Beneficial Ownership Certification" means a certification regarding the Beneficial Owners of the Borrower as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan."

"Board" means the Board of Governors of the Federal Reserve System of the United States.

"Boron Plant" means that certain liquefied natural gas liquefaction plant located at 14436 Contractor Road, Boron, California 93416.

"Borrower" has the meaning assigned to such term in the introductory paragraph hereto.

"Borrowing" means Loans of the same Type, made, converted or continued on the same date and, in the case of Term SOFR Loans, as to which a single Interest Period is in effect.

"Borrowing Date" means any Business Day specified by the Borrower as a date on which the relevant Lenders make Loans hereunder.

"Borrowing Request" means a written request for a Borrowing signed and delivered by the Borrower to the Administrative Agent in accordance with Section 2.03 and substantially in the form of Exhibit B or such other form approved by the Administrative Agent.

"bp JV" means CE bp Renew Co LLC, a Delaware limited liability company, a 50/50 joint venture between CERD and BP Products North America, Inc.

"bp JV Agreement" means the Limited Liability Company Agreement of the bp JV, dated as of April 13, 2021.

"bp JV Contracts" means (a) the bp JV Agreement, (b) the bp Marketing Agreement and (c) the Dynamic Development Agreement.

"bp Marketing Agreement" means the Marketing Agreement, effective as of October 1, 2018, among BP Products North America Inc., BP Energy Company and CERF.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City or Orange County, California are authorized or required by law to remain closed; provided that, in relation to Term SOFR Loans and any interest rate settings, fundings, disbursements, settlements or payments of any such Term SOFR Loan or any other dealings of such Term SOFR Loan, "Business Day" shall be only any such day that is a U.S. Government Securities Business Day.

"Call Premium" means, with respect to any prepayment of Loans and any other payment of the Loans hereunder, whether due to acceleration or otherwise: (a) in the case of any such payment of Loans that occurs during the period after the first anniversary of the Closing Date to and including the date that is eighteen (18) months after the Closing Date, an amount equal to the principal amount of such Loans being prepaid multiplied by two percent (2.0%); (b) in the case of any such payment of Loans that occurs during the period after the date that is eighteen (18) months after the Closing Date to and including the date that is twenty-four (24) months after the Closing Date, an amount equal to the principal amount of such Loans being prepaid multiplied by two and a half percent (2.5%); and (c) in the case of any such payment of Loans that occurs after the date that is twenty-four (24) months after the Closing Date, an amount equal to the principal amount of such Loans being prepaid multiplied by three percent (3.0%). For the avoidance of doubt, no Call Premium shall apply with respect to any prepayment of all Loans, whether due to acceleration or otherwise, that occurs on or prior to the first anniversary of the Closing Date.

"Canadian Debenture" means the Floating Charge Demand Debenture in substantially the form of Exhibit G-2 (or such other form reasonably acceptable to the Collateral Agent), dated as of the Closing Date, made by CEFS in favor of the Collateral Agent for and on behalf of the Secured Parties.

"Canadian Debenture Pledge" means the Debenture Pledge Agreement in substantially the form of Exhibit G-3 (or such other form reasonably acceptable to the Collateral Agent), dated as of the Closing Date, made by CEFS in favor of the Collateral Agent.

"Canadian GSA" means the General Security Agreement in substantially the form of Exhibit G-4 (or such other form reasonably acceptable to the Collateral Agent), dated as of the Closing Date, between CEFS and the Collateral Agent.

"Canadian Guarantee" means the Guarantee in substantially the form of Exhibit G-1 (or such other form reasonably acceptable to the Collateral Agent), dated as of the Closing Date, made by CEFS in favor of the Collateral Agent for the benefit of the Secured Parties.

"Canadian Security Documents" means each of (a) the Canadian Debenture, (b) the Canadian Debenture Pledge, (c) the Canadian GSA and (d) the Canadian Guarantee.

"Capital Expenditures" means, for any Person, all expenditures for fixed or capital assets or other capital expenditures which, in accordance with GAAP, are required to be capitalized and so shown on the consolidated balance sheet of such Person.

"Capital Leases" means, in respect of any Person, all leases which shall have been, or should have been, in accordance with GAAP, recorded as capital leases or finance leases on the balance sheet of the Person liable (whether contingent or otherwise) for the payment of rent thereunder. Notwithstanding any other provision contained herein, any lease that would be characterized as an operating lease in accordance with GAAP after the adoption of ASC 842 (regardless of the date on which such lease has been entered into) shall not be a capital or finance lease, and any such lease shall be, for all purposes of this Agreement, treated as though it were reflected on the Borrower's consolidated financial statements in the same manner as an operating lease would have been reflected prior to the adoption of ASC 842.

"Cash Equivalents" means Investments in:

(a) marketable obligations, maturing within one (1) year after acquisition thereof, issued or unconditionally guaranteed by the United States or an instrumentality or agency thereof and entitled to the full faith and credit of the United States;

(b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one (1) year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Moody's;

(c) deposits maturing within one (1) year from the date of creation thereof with, including certificates of deposit issued by, any Lender or any office located in the United States or any other bank or trust company which is organized under the laws of the United States or any state thereof, has capital, surplus and undivided profits aggregating at least $500,000,000 (as of the date of such bank or trust company's most recent financial reports) and has a short term deposit rating of no lower than A2 or P2, as such rating is set forth from time to time, by S&P or Moody's, respectively; and

(d) money market funds substantially all of the assets of which comprise securities of the types described in clauses (a) through (c) above.

"Cash Flow From Operations" means, with reference to the financial statements most recently delivered pursuant to Section 8.01(a), the line item "Cash Flow From Operations" contained in Parent's cash flow statement, determined in accordance with GAAP to measure the cash generated from the normal business operations of Parent and its Consolidated Subsidiaries and in a manner consistent with Parent's past practice.

"Casualty Event" means (a) any loss, casualty or other insured damage to any Property of any Loan Party or any of its Subsidiaries or (b) any nationalization, taking under power of eminent domain or by condemnation or similar proceeding of (or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking), any Property of any Loan Party or any of its Subsidiaries (any event in this clause (b), a "Condemnation Event").

"CEFS" means Clean Energy Fueling Services Corp., a corporation organized under the laws of British Columbia.

"CERD" means Clean Energy Renewable Development, LLC, a Delaware limited liability company.

"Change in Control" means:

(a) (i) any "person" or "group" (as such terms are used in Section 13(d)(3) of the Securities Exchange Act of 1934) is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of more than 35% of the voting or economic power of the Equity Interests in Parent; or (ii) the occupation of a majority of the seats (other than vacant seats) on the board of directors of Parent by Persons who were neither (x) nominated or appointed by the board of directors of Parent nor (y) appointed by directors so nominated or appointed;

(b) Parent ceases to, directly or indirectly, (i) own 100% of the issued and outstanding Equity Interests of the Borrower or (ii) possess the right at all times to elect all of members of the board of directors (or similar governing body) of the Borrower;

(c) the sale or transfer of all or substantially all assets of Parent or the Borrower; or

(d) a "change of control" or any comparable term under and as defined in any definitive documentation governing any Material Indebtedness of the Loan Parties or their Subsidiaries has occurred.

"Change in Law" means the occurrence after the date of this Agreement or, with respect to any Lender, such later date on which such Lender becomes a party to this Agreement, of (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the interpretation or application thereof by any Governmental Authority or (c) compliance by any Lender (or, for purposes of Section 5.01(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith (whether or not having the force of law) or in implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a "Change in Law," regardless of the date enacted, adopted, promulgated, issued or implemented.

"Clean Energy" means Clean Energy in any capacity other than as Borrower hereunder.

"CLNE" means Clean Energy Fuels Corp. in any capacity other than as Parent hereunder.

"Closing Date" means the date on which the conditions specified in Section 6.01 are satisfied (or waived in accordance with Section 12.02).

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means all Property now owned or hereafter acquired by the Loan Parties which is subject to a Lien created or purported to be created under one or more Security Documents, including all Mortgaged Property; provided that the Collateral shall not include the Excluded Assets.

"Collateral Agent" means Riverstone Credit Management LLC, as collateral agent for the Secured Parties, together with any successor collateral agent or collateral agent appointed in accordance with the provisions of Section 11.06.

"Commitments" means, with respect to each Lender, the commitment of such Lender to make Loans hereunder pursuant to Section 2.01(a) in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Annex I hereto under the heading "Commitments". The aggregate principal amount of the Commitments on the Closing Date is $150,000,000.

"Commodity Accounts" means all "commodity accounts" (as such term is defined in the UCC) of the Loan Parties.

"Condemnation Event" has the meaning assigned to such term in the definition of "Casualty Event".

"Consent Agreement" means a consent agreement with respect to a Material Contract substantially in the form of Exhibit L or otherwise in form and substance reasonably satisfactory to the Administrative Agent.

"Consolidated Subsidiaries" means, at any date, each Subsidiary the financial statements of which are (or should have been) consolidated with the financial statements of Parent in accordance with GAAP.

"Consolidated Total Assets" means, at any date, the total assets of Parent and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, including the power to elect a majority of the directors, managers, trustees or equivalent of a Person, as the case may be. "Controlling" and "Controlled" have meanings correlative thereto.

"Control Agreement" means a control agreement, in form and substance reasonably satisfactory to the Collateral Agent, providing for the Collateral Agent's control of a Deposit Account, Securities Account or Commodity Account (but not an Excluded Account), as applicable, after notice is delivered as provided therein, executed and delivered by the Collateral Agent, the Borrower or other applicable Loan Party, and the applicable securities intermediary (with respect to a Securities Account), depository bank (with respect to a Deposit Account) or commodity intermediary (with respect to a Commodity Account), in each case at which such relevant account is maintained.

"Current Assets" means, at any date, the total current assets (other than cash and cash equivalents) of Parent, the Borrower and their Subsidiaries on such date.

"Current Liabilities" means, at any date, the total current liabilities of Parent, the Borrower and their Subsidiaries on such date, but excluding the current portion of any Indebtedness under this Agreement and the current portion of any other long-term Indebtedness which would otherwise be included therein.

"Debt Incurrence Proceeds" means any Net Cash Proceeds received by any Loan Party or any Subsidiary of any Loan Party from any incurrence of Indebtedness (other than the Secured Obligations) by any such Loan Party or Subsidiary.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Deposit Accounts" means all "deposit accounts" (as such term is defined in the UCC) of the Loan Parties.

"Disposition" means, with respect to any Property, any sale, lease, sale and leaseback, assignment, conveyance, transfer, license or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a division or otherwise) thereof, including, without any limitation, any Casualty Event. The terms "Dispose" and "Disposed of" have meanings correlative thereto.

"Disqualified Capital Stock" means any Equity Interest that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event, matures or is mandatorily redeemable for any consideration other than other Equity Interests (which would not constitute Disqualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is convertible or exchangeable for Indebtedness or redeemable for any consideration other than other Equity Interests (which would not constitute Disqualified Capital Stock) at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days after the earlier of (a) the Maturity Date and (b) the date on which there are no Loans or other obligations hereunder outstanding and all of the Commitments are terminated, in each case, other than any Disqualified Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Equity Interests are convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem or repurchase such Equity Interests upon the occurrence of a change in control so long as such Equity Interests provide that the issuer thereof will not redeem or repurchase any such Equity Interests pursuant to such provisions prior to Payment in Full.

"dollars" or "$" refers to lawful money of the United States.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of the United States or any state thereof or the District of Columbia.

"Dynamic" means Dynamic R2 Holding LLC, a Delaware limited liability company.

"Dynamic Development Agreement" means the Development Framework and Services Agreement, by and between Dynamic and the bp JV, dated as of July 26, 2021, pursuant to which, among other things, the bp JV engaged Dynamic to provide certain development services with respect to potential RNG facilities.

"EBITDA" means, with respect to Parent and its Consolidated Subsidiaries for any period, the Net Income of such Persons for such period:

(a) increased by, to the extent deducted in computing Net Income for such period (without duplication):

(i) Interest Expense; plus

(ii) provisions for taxes based on income, profits or capital, including state, franchise, excise and similar taxes and foreign withholding taxes paid or accrued; plus

(iii) total depreciation and amortization expense; plus

(iv) all non-cash compensation expenses reducing Net Income for such period; plus

(v) all non-cash expenses incurred as a result of vesting of the Amazon Warrant; plus

(vi) non-cash exchange, translation or performance losses relating to any commodity hedging transactions existing on the Closing Date and identified on Schedule 7.19 hereto or foreign currency fluctuations; plus

(vii) all other non-cash charges or expenses, including any write-offs and write-downs, reducing Net Income for such period (excluding any such non-cash charge or expense to the extent that it represents an accrual of or reserve for cash charges or expenses in any future period or amortization of a prepaid cash charge or expense that was paid in a prior period), including (A) non-cash adjustments in accordance with GAAP purchase accounting rules, (B) non-cash increase in expenses or decrease in revenues resulting from inventory revaluations or adjustments, (C) non-cash losses on sales of fixed assets or write-downs of fixed or intangible assets and (D) non-cash expenses, charges or write-offs and impairment charges (including expenses, charges or write-offs of goodwill and forgiveness of Indebtedness and losses from Investments recorded using the equity method), but excluding any non-cash loss or expense (x) that is an accrual of a reserve for a cash expenditure or payment to be made, or anticipated to be made, in a future period or (y) relating to a write-down, write-off or reserve with respect to Accounts and inventory (other than any non-cash loss or expense (or non-cash income or gain) resulting from the adjustment of aged or slow-moving inventory reserves); plus

(viii) any extraordinary, unusual or non-recurring non-cash losses acceptable to the Administrative Agent; plus

(ix) (A) expenses, charges and fees paid to the Agents or the Lenders and fees, costs and expenses paid or reimbursed by the Loan Parties (including any fees, costs and expenses paid to or reimbursed to the Administrative Agent or the Lender) in connection with the negotiation, consummation, administration (including in connection with any waiver, amendment, supplementation or other modification of) the Loan Documents and the Transaction or (B) all reasonable expenses, charges and fees owed by any Loan Party in connection with any Investment permitted under Section 9.05; plus

(x) all reasonable and documented out-of-pocket costs, fees, expenses, charges and any other one-time payments related to issuance of equity, recapitalization or reorganization permitted hereunder, consummation of a Disposition permitted under Section 9.10 or incurrence of Indebtedness permitted under Section 9.02, for such period, and any amendments, waivers or modifications under the agreements relating to such Indebtedness permitted under Section 9.02; plus

(xi) any costs or expenses incurred by any Loan Party pursuant to any management or employee equity plan or any stock option plan or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of Parent or any other Loan Party or net cash proceeds of an issuance of Equity Interests of Parent or any other Loan Party; plus

(xii) non-recurring costs and expenses incurred in connection with the recruitment and relocation of employees of the Loan Parties and severance costs and expenses of the Loan Parties (including restructuring charges, retention, recruiting, relocation, moving expenses, signing bonuses and expenses, search charges and expenses, third party assessments of candidates, stay bonuses paid to existing management, stock option and other equity-based compensation expenses, accruals or reserves); plus

(xiii) unrealized net foreign currency translation or transaction losses impacting Net Income (including currency remeasurements of Indebtedness and any unrealized net losses resulting from hedge agreements for currency exchange risk associated with the above or any other currency-related risk) and not for speculative purposes; plus

(xiv) other non-recurring, extraordinary or unusual losses, expenses or charges not to exceed $1,000,000 in the aggregate during such Test Period; and

(b) decreased by, to the extent included in computing Net Income for such period (without duplication), (i) non-cash gains increasing Net Income for such period (excluding any such non-cash gains on items to the extent representing the reversal of an accrual or reserve for a potential cash charge in any prior period); plus (ii) any extraordinary, unusual or non-recurring gains; plus (iii) any gains from the sale or other disposition of property (other than sales made in the ordinary course of business) pursuant to a Disposition permitted under Section 9.10; plus (iv) unrealized net foreign currency translation or transaction gains impacting Net Income (including currency remeasurements of Indebtedness and any net gains resulting from hedge agreements for currency exchange risk associated with the above or any other currency-related risk) and not for speculative purposes.

Notwithstanding anything to the contrary, in no event shall the amounts added back pursuant to the foregoing clause (a)(vii) - clause (a)(xiii) exceed $5,000,000 in the aggregate.

For purposes of calculating EBITDA for any Test Period, (i) if during such Test Period, Parent, the Borrower or any Subsidiary shall have made a Material Acquisition, EBITDA for such Test Period shall be calculated after giving *pro forma* effect thereto as if such Material Acquisition occurred on the first day of such Test Period and (ii) if during such Test Period, Parent, the Borrower or any Subsidiary shall have made a Material Disposition, EBITDA for such Test Period shall be calculated after giving *pro forma* effect thereto as if such Material Disposition occurred on the first day of such Test Period. As used in this definition, (x) "Material Acquisition" means any acquisition of Property or series of related acquisitions of Property that involves the payment of consideration by Parent, the Borrower and their Subsidiaries in excess of $5,000,000 and (y) "Material Disposition" means any Disposition of Property or series of related Dispositions of Property that involves the payment of consideration to Parent, the Borrower and their Subsidiaries in excess of $5,000,000.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or clause (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environmental Credits" means any and all environmental credits, offsets, attributes or other entitlements generated under any federal, state, local or other law, including those attributable to biogas resources, renewable natural gas and/or natural gas (including RINs), state low-carbon fuel standards (including LCFS), carbon offsets or carbon allowance, in each case, to the extent owned by any Loan Party, but excluding any Incentives.

"Environmental Laws" means any and all Governmental Requirements pertaining to health and safety with respect to exposure to Hazardous Materials, the environment, the preservation or reclamation of natural resources or the management, Release or Threatened Release of any Hazardous Materials, including the Clean Air Act; the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 ("CERCLA"); the Federal Water Pollution Control Act; the Occupational Safety and Health Act of 1970 to the extent relating to exposure to Hazardous Materials; the Resource Conservation and Recovery Act of 1976; the Toxic Substances Control Act; the Hazardous Material Transportation Act; the Endangered Species Act; the National Environmental Policy Act; and the Federal Insecticide, Fungicide and Rodenticide Act; as each of the foregoing laws have been or may be amended or supplemented, and any successor thereto; and other environmental conservation or protection Governmental Requirements.

"Environmental Permit" means any permit, registration, license, notice, approval, consent, exemption, variance or other authorization required under or issued pursuant to applicable Environmental Laws.

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, including both preferred and common equity, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such Equity Interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, any successor statute and the rules and regulations promulgated thereunder.

"ERISA Affiliate" means each trade or business (whether or not incorporated) which together with Parent, the Borrower or any Subsidiary of Parent or the Borrower would be deemed to be a "single employer" within the meaning of section 4001(b)(1) of ERISA or subsections (b), (c), (m) or (o) of section 414 of the Code.

"ERISA Event" means (a) the existence with respect to any Plan of a non-exempt "prohibited transaction," as defined Section 406 of ERISA or Section 4975 of the Code; (b) any "reportable event," as defined in Section 4043 of ERISA with respect to a Plan (other than an event for which the 30-day notice period is waived); (c) the failure of Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or any failure by any Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, whether or not waived in accordance with Section 412(c) of the Code or Section 302(c) of ERISA; (d) a determination that any Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (e) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (f) the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Plan or the incurrence by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Plan; (g) the receipt by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (h) the failure by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate to make any required contribution to a Multiemployer Plan, pursuant to Sections 431 or 432 of the Code; (i) the incurrence by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Plan or Multiemployer Plan; (j) the receipt by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate of any notice concerning the imposition on Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, in "endangered" or "critical" status (within the meaning of Sections 431 or 432 of the Code or Sections 304 or 305 of ERISA) or terminated (within the meaning of Section 4041A or 4042 of ERISA); (k) the failure by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA; (l) the withdrawal by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate from any Plan with two or more contributing sponsors or the termination of any such Plan resulting in liability to Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate pursuant to Section 4063 or 4064 of ERISA; (m) the imposition of liability on Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; or (n) the imposition of a lien pursuant to Section 430(k) of the Code or pursuant to Section 303(k) or 4068 of ERISA with respect to any Plan.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" has the meaning assigned to such term in Section 10.01.

"Excepted Liens" means:

(a) Liens for Taxes, assessments or other governmental charges or levies which are (i) not delinquent or (ii) being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP;

(b) Liens in connection with workers' compensation, unemployment insurance or other social security, old age pension or public liability obligations which are not delinquent or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP;

(c) statutory landlord's liens, operators', vendors', carriers', warehousemen's, repairmen's, mechanics', suppliers', workers', materialmen's, construction or other like Liens arising by operation of law in the ordinary course of business, each of which is in respect of obligations that are not delinquent by more than thirty (30) days or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP or in respect of which bonds otherwise in an amount sufficient to repay the underlying obligation of such Liens shall have been obtained and remain in effect;

(d) Liens arising solely by virtue of any statutory or common law provision or customary deposit account terms (pursuant to a depository institution's standard documentation that is provided to its customers generally) relating to banker's liens, rights of set-off or similar rights and remedies and burdening only deposit accounts or other funds maintained with a creditor depository institution; provided that no such deposit account is a dedicated cash collateral account or is subject to restrictions against access by the depositor in excess of those set forth by regulations promulgated by the Board and no such deposit account is intended by any Loan Party or any Subsidiary of any Loan Party to provide collateral to the depository institution;

(e) encumbrances consisting of zoning restrictions, easements, leases, covenants, conditions or other restrictions on or relating to the use of real property, none of which materially impairs the use or operation of such property in the ordinary course of business of the Loan Parties and their Subsidiaries, and that do not otherwise individually or in the aggregate materially impair the validity, perfection or priority of the Liens granted under the Security Documents;

(f) Liens permitted under Section 9.03(c), Section 9.03(d), Section 9.03(f), Section 9.03(g) or Section 9.03(l);

provided, further, that (x) Liens described in clauses (a) through (d) and (f) shall remain "Excepted Liens" only for so long as no action to enforce such Lien has been commenced and (y) in no event shall "Excepted Liens" secure Indebtedness of the type specified in clause (a) or clause (b) of the definition of Indebtedness other than Indebtedness of the type described in Section 9.02(b), Section 9.02(c), Section 9.02(i) and Section 9.02(n). For the avoidance of doubt, and without limitation to the foregoing clauses, it is acknowledged and agreed that all exceptions to title referenced in any Title Policy delivered to Administrative Agent with respect to any Mortgage shall be deemed an "Excepted Lien" hereunder.

"Excess Cash Flow" means, for any fiscal year of Parent, the excess, if any, of:

(a) the sum, without duplication, of:

(i) Cash Flow From Operations for such fiscal year; and

(ii) the amount of dividends or distributions actually paid in cash during such fiscal year from joint ventures or other Persons in which Parent or any of its Consolidated Subsidiaries holds Equity Interests (other than such Consolidated Subsidiaries) to Parent or any Consolidated Subsidiary; minus

(b) the sum, without duplication, of:

(i) the aggregate amount of all Permitted Investments paid in cash by Parent and its Consolidated Subsidiaries during such fiscal year (other than Permitted Investments to the extent financed with the proceeds of capital contributions (including from the issuance of Equity Interests) or Indebtedness or financed with insurance proceeds received by Parent or any Consolidated Subsidiary as the result of a Casualty Event);

(ii) the aggregate amount of all Capital Expenditures made by Parent and its Consolidated Subsidiaries during such fiscal year (other than maintenance Capital Expenditures to the extent financed with the proceeds of capital contributions (including from the issuance of Equity Interests) or Indebtedness or financed with insurance proceeds received by Parent or any Consolidated Subsidiary as the result of a Casualty Event);

(iii) the aggregate amount of Taxes paid in cash by Parent and its Consolidated Subsidiaries during such fiscal year (other than any such payments to the extent financed with the proceeds of capital contributions (including from the issuance of Equity Interests) or Indebtedness); and

(iv) the amount of principal payments in respect of the Loans, including any Call Premium thereon, and scheduled payments of Total Funded Indebtedness, in each case, made in cash during such fiscal year.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Excluded Account" means any Deposit Account or Securities Account (a) in which funds on deposit in such account (i) are maintained and used solely for the payment of salaries, wages and payroll tax, workers' compensation and 401K, health and welfare plans with respect to employees of the Loan Parties and their Subsidiaries and (ii) constitute solely cash or securities that are subject to a Lien permitted under Section 9.03(d) with an aggregate principal balance not exceeding $1,000,000 at any time and (b)(i) established as trust, escrow or fiduciary accounts, (ii) that are zero balance accounts and (iii) containing solely cash collateral securing a Permitted Lien under Section 9.03(d), Section 9.03(g)(ii), Section 9.03(l) or Section 9.03(p).

"Excluded Assets" has the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Excluded Perfection Actions" means the following actions, unless otherwise requested by Administrative Agent at any time during the continuance of a Default: (a) any filings or other action in any jurisdiction outside of the United States, any state thereof or the District of Columbia or Canada or required by the laws of any jurisdiction outside of the United States, any state thereof or the District of Columbia or Canada to create or perfect any security interest in assets located or titled outside the United States, any state thereof or the District of Columbia or Canada, (b) control agreements with respect to Excluded Accounts, (c) perfection obtained through notation on a certificate of title other than with respect to Titled Vehicles of Significance, (d) the giving of notice or taking other actions (other than the filing of UCC financing statements) in respect of any (i) Chattel Paper (to the extent the value thereof does not exceed $500,000 in the aggregate), (ii) negotiable Documents (to the extent the value thereof or of all Goods covered thereby do not exceed $1,000,000), (iii) promissory notes and other Instruments (other than checks) (to the extent the principal amount thereof does not exceed $500,000 in the aggregate), (iv) Letter-of-Credit Rights (to the extent the value thereof does not exceed $500,000 in the aggregate), (v) Commercial Tort Claims to the extent the amount thereof does not exceed $500,000 in the aggregate and (vi) any filings or other action to perfect the Administrative Agent's security interest granted hereunder in all unregistered Intellectual Property and all Intellectual Property that is not registered with the United States Patent and Trademark Office, the United States Copyright Office or the Canadian Intellectual Property Office (excluding exclusive inbound licenses to registered United States copyrights and exclusive inbound licenses to registered Canadian copyrights and industrial designs) or other foreign office, as applicable, except to the extent perfection can be obtained through the filing of UCC financing statements, (e) any requirement to obtain Mortgages, bailee waivers, landlord waivers, estoppels or collateral access letters other than with respect to Material Real Property and (f) any other perfection action as to which the Administrative Agent and the Borrower reasonably determine that the costs of such perfection action with respect to such assets are excessive in relation to the value of the security or other benefit afforded thereby. Capitalized terms used in this definition but not otherwise defined herein shall have the meanings given to them in the UCC.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes; (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment under Section 5.04) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 5.03, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office; (c) Taxes attributable to such Recipient's failure to comply with Section 5.03(f); and (d) any withholding Taxes imposed under FATCA.

"Existing NG Advantage Debt" means, at any time of determination, any Indebtedness (other than any contingent indemnification obligation for which no claim has yet been asserted) outstanding under (a) the Loan and Security Agreement, dated as of November 30, 2016, between NG Advantage and Wintrust Commercial Finance, (b) the Consolidated, Amended and Restated Loan and Security Agreement, dated as of December 10, 2020, between NG Advantage and Berkshire Bank and (c) the Second Amendment to Consolidated, Amended and Restated Loan and Security Agreement, dated as of January 31, 2022, between NG Advantage and Berkshire Bank (pursuant to which additional new term loans were extended to NG Advantage) and, in each case, any other loan document entered into in connection with any of the foregoing.

"Existing Plains Debt" means Indebtedness outstanding under the Loan and Security Agreement, dated as of May 1, 2021, among CLNE, as debtor, Clean Energy, as pledgor, and PlainsCapital Bank.

"Existing SG Debt" means Indebtedness outstanding under the Term Credit Agreement, dated as of January 2, 2019, between CLNE and Société Générale.

"Extraordinary Net Cash Receipts" means any cash received by or paid to or for the account of any Loan Party or any Subsidiary of any Loan Party not in the ordinary course of business consisting of (a) proceeds of business interruption insurance and (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action (other than with respect to reimbursement of third party claims) relating to the Collateral; in each case, net of (i) reasonable and documented costs and expenses associated therewith, including reasonable and documented legal fees and expenses, (ii) all federal, state, provincial, foreign and local income Taxes required to be paid in the then-current fiscal year or subsequent fiscal year as a consequence of such event, (iii) any amounts required to be used to prepay Indebtedness permitted pursuant to Section 9.02 (other than the Secured Obligations or other secured Indebtedness that is secured by a Lien that is junior to the Lien securing the Secured Obligations) secured by the assets subject to event and (iv) amounts reasonably estimated by such Loan Party or Subsidiary thereof solely to the extent necessary to repair, restore or replace any assets, the damage, destruction or other loss of which gave rise to such receipts; provided, however, that Extraordinary Net Cash Receipts shall not include cash receipts to the extent that such funds are received by any Loan Party or any Subsidiary of any Loan Party in respect of any third party claim against such Person and applied to pay (or reimburse such Person for its prior payment of) such claim plus related costs and expenses.

"Facility" means the Commitments and the Loans.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules, administrative guidance or practices adopted or entered into pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"FCPA" means the United States Foreign Corrupt Practices Act of 1977, as amended.

"Federal Funds Effective Rate" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary institutions, as determined in such manner as the NYFRB shall set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that (a) if such a day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to three major banks on such day of such transactions as determined by the Administrative Agent; provided, further, that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to zero for the purposes of this Agreement.

"Fee Letter" means that certain Fee Letter among the Agents, the Lead Arranger and the Borrower, dated as of the Closing Date.

"Financial Covenants" has the meaning assigned to such term in Section 9.01.

"Financial Officer" means, for any Person, a chief financial officer, principal accounting officer, treasurer or controller of such Person. Unless otherwise specified, all references herein to a Financial Officer means a Financial Officer of Parent.

"Fitch" means Fitch Ratings Inc. and any successor thereto.

"Flood Laws" mean all collectively, (a) National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (b) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (c) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means any Lender that is not a United States person, within the meaning of Section 7701(a)(30) of the Code.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"Funds Flow Memorandum" has the meaning assigned to such term in Section 6.01(q).

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time subject to the terms and conditions set forth in Section 1.04.

"Governmental Approval" means any authorization, consent, approval, license, ruling, permit, tariff, rate, certification, exemption, filing, variance, claim, order, judgment, decree, publication, notice, declaration or registration, filed with, or issued or granted, by any Governmental Authority.

"Governmental Authority" means the government of the United States, 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 (including any supra-national bodies such as the European Union or the European Central Bank).

"Governmental Requirement" means any law, statute, code, ordinance, order, determination, rule, rule of common law, regulation, judgment, decree, injunction, franchise, permit, certificate, license, authorization or other directive or requirement, whether now or hereinafter in effect, including Environmental Laws and occupational, safety and health standards or controls, of any Governmental Authority.

"Guarantee and Collateral Agreement" means the Guarantee and Collateral Agreement in substantially the form of Exhibit F (or such other form reasonably acceptable to the Collateral Agent), dated as of the Closing Date, executed by the Loan Parties in favor of the Collateral Agent for the benefit of the Secured Parties.

"Guarantors" means, collectively, Parent and the Subsidiary Guarantors.

"Hazardous Material" means any substance regulated or as to which liability might arise under any applicable Environmental Law and including: (a) any chemical, compound, material, product, byproduct, substance or waste defined as or included in the definition or meaning of "hazardous substance," "hazardous material," "hazardous waste," "toxic waste," "extremely hazardous substance," "toxic substance," "contaminant," "pollutant" or words of similar meaning or import found in any applicable Environmental Law; (b) Hydrocarbons, petroleum products, oil and gas waste and their byproducts, including, but not limited to, sludge or residue; and (c) explosives, radioactive materials, asbestos-containing materials, polychlorinated biphenyls, per- and poly-fluorinated substances or radon.

"Hedge Termination Value" means, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable 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 values determined in accordance therewith, such termination values and any unpaid amounts and (b) for any date prior to the date referenced in clause (a), the amounts determined as the mark-to-market value for such Hedging Agreements, as determined in accordance with GAAP.

"Hedging Agreement" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement, whether exchange traded, "over-the-counter" or otherwise, involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of any Loan Party or their Subsidiaries shall be a Hedging Agreement.

"Highest Lawful Rate" means, with respect to each Lender, the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Loans or on other Secured Obligations under laws applicable to such Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws allow as of the date hereof.

"Hydrocarbons" means oil, gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all products refined or separated therefrom.

"Immaterial Subsidiary" means any Subsidiary of Parent (a) that individually constitutes or holds less than five percent (5%) of Parent's Consolidated Total Assets or (b) which, when taken together with all then existing Immaterial Subsidiaries, such Subsidiary and such Immaterial Subsidiaries, in the aggregate, would constitute or hold less than five percent (5%) of Parent's Consolidated Total Assets, in each case of the foregoing clauses as of the last day of, or for, the most recently ended fiscal period for which financial statements were required to have been delivered pursuant to Section 8.01(a) or Section 8.01(b).

"Incentives" means any tax benefits, tax credits or other financial incentives (including AFTC), whether federal, state or otherwise, resulting from natural gas vehicle fuel sales.

"Increased Cost Lender" has the meaning assigned to such term in Section 5.06.

"Indebtedness" means, for any Person, the sum of the following (without duplication): (a) all obligations of such Person for borrowed money or evidenced by bonds, bankers' acceptances, debentures, notes or other similar instruments; (b) all obligations of such Person (whether contingent or otherwise) in respect of letters of credit, surety or other bonds and similar instruments; (c) all accounts payable and other accrued expenses, liabilities or other obligations of such Person to pay the deferred purchase price of Property or services (other than trade accounts payable in the ordinary course of business that are not unpaid for more than one hundred twenty (120) days after the date of invoice); (d) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP; (e) all Indebtedness (as defined in the other clauses of this definition) of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien on any Property of such Person, whether or not such Indebtedness is assumed by such Person, provided that, if such Person has not assumed or become liable for the payment of such obligation, the amount of such Indebtedness shall be limited to the lesser of (i) the principal amount of the obligations being secured and (ii) the fair market value of the encumbered Property; (f) all Indebtedness (as defined in the other clauses of this definition) of others guaranteed by such Person or in which such Person otherwise assures a creditor against loss of the Indebtedness (howsoever such assurance shall be made) to the extent of the lesser of the amount of such Indebtedness and the maximum stated amount of such guarantee or assurance against loss; (g) all obligations or undertakings of such Person to maintain or cause to be maintained the financial position or covenants of others or to purchase the Indebtedness or Property of others; (h) obligations to deliver commodities, goods or services in consideration of one or more advance payments; (i) obligations to pay for goods or services, even if such goods or services are not actually received or utilized by such Person, i.e., take-or-pay and similar obligations; (j) any Indebtedness of a partnership for which such Person is liable either by agreement, by operation of law or by a Governmental Requirement but only to the extent of such liability; (k) Disqualified Capital Stock (for purposes hereof, the amount of any Disqualified Capital Stock shall be its liquidation value and, without duplication, the amount of all obligations of such Person with respect to the redemption, repayment or other repurchase in respect of Disqualified Capital Stock); and (l) net obligations under Hedging Agreements, excluding any portion thereof that would be accounted for as an interest expense under GAAP. The Indebtedness of any Person shall include all obligations of such Person of the character described above to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is not included as a liability of such Person under GAAP. For purposes hereof, the amount of any net obligations in respect of any Hedging Agreement at any time shall be deemed to be the Hedge Termination Value of such Hedging Agreement at such time.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" has the meaning assigned to such term in Section 12.03(b).

"Information" has the meaning assigned to such term in Section 12.11.

"Intellectual Property" has the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Interest Coverage Ratio" means, for any date of determination, the ratio of (a) EBITDA to (b) Interest Expense, in each case, for the Test Period ending on the most recent Test Date on or prior to such date.

"Interest Election Request" means a written request signed and delivered by the Borrower to the Administrative Agent to convert or continue a Borrowing in accordance with Section 2.04 and substantially in the form of Exhibit C or such other form approved by the Administrative Agent.

"Interest Expense" means, with respect to Parent and its Consolidated Subsidiaries for any period, the sum of (a) gross interest expense of such Persons for such period determined on a consolidated basis in accordance with GAAP (including (i) the amortization of debt discounts, (ii) the amortization of all fees (including fees with respect to Hedging Agreements) payable in connection with the incurrence of Indebtedness to the extent included in interest expense and (iii) the portion of any payments or accruals with respect to Capital Lease obligations allocable to interest expense) and (b) capitalized interest of such Persons. For purposes of the foregoing, gross interest expense shall be determined after giving effect to any net payments made or received and costs incurred by Parent and its Consolidated Subsidiaries with respect to any interest rate Hedging Agreements, and interest on a Capital Lease obligation shall be deemed to accrue at an interest rate reasonably determined by the Borrower to be the rate of interest implicit in such Capital Lease obligation in accordance with GAAP.

"Interest Payment Date" means (a) with respect to (i) each Term SOFR Loan, the last day of each Interest Period applicable thereto and (ii) each ABR Loan, each Quarterly Date and (b) the Maturity Date.

"Interest Period" means, with respect to any Borrowing consisting of a Term SOFR Loan, the period commencing on the date of such Borrowing or on the last day of the immediately preceding Interest Period applicable to such Borrowing, as applicable, and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is one (1) or three (3) months thereafter (unless such day is not a Business Day in which case such Interest Period shall be extended to the next succeeding Business Day, unless such Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day), as the Borrower may elect, or the date any Term SOFR Loan is converted to an ABR Loan, in accordance with Section 2.04 or repaid or prepaid in accordance with Section 3.01 or Section 3.04; provided that no Interest Period shall extend beyond the Maturity Date. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period.

"Investment" means, for any Person: (a) the purchase or acquisition (whether for cash, Property, services or securities or otherwise) of Equity Interests of any other Person or any agreement to make any such acquisition (including any "short sale" or any sale of any securities at a time when such securities are not owned by the Person entering into such short sale); (b) the making of any deposit with, or advance, loan or capital contribution to, assumption of Indebtedness of, purchase or other acquisition of any other Indebtedness or equity participation or interest in, or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person, but excluding any such advance, loan or extension of credit having a term not exceeding ninety (90) days representing the purchase price of inventory or supplies sold by such Person in the ordinary course of business); (c) the purchase or acquisition (in one or a series of transactions) of Property of another Person that constitutes a business unit or a discrete set of Properties of the seller of such Properties, other than any Property consisting of equipment, inventory, materials or consumables purchased or acquired in the ordinary course of business; or (d) the entering into of any guarantee of, or other contingent obligation (including the deposit of any Equity Interests to be sold) with respect to, Indebtedness or other liability of any other Person and (without duplication) any amount committed to be advanced, lent or extended to such Person.

"IRS" means the United States Internal Revenue Service.

"Junior Financing" has the meaning assigned to such term in Section 9.18.

"Key Employee" means (a) Andrew Littlefair, as president and chief executive officer of Parent and (b) any replacement president and/or chief executive officer.

"KPI Metric" means with respect to any fiscal year, the quotient (expressed as a percentage) obtained by dividing (a) the Loan Parties' total renewable natural gas fuel delivery (i.e., non-fossil fuel sources) to on-road vehicle customers by (b) the Loan Parties' total natural gas fuel delivery to on-road vehicle customers.

"KPI Metrics Report" means an annual report (it being understood that this annual report may take the form of the annual Sustainability Report) attached to the Sustainability Certificate that sets forth the calculations for the KPI Metric for a specific fiscal year.

"KPI Threshold" means with respect to the fiscal year ending December 31, 2025, 100%.

"Labor Contracts" means all employment agreements, employment contracts, collective bargaining agreements and other agreements among any Loan Party or any of its Subsidiaries and its employees.

"LCFS" means the regulatory program, including regulations and formal written policies adopted by (a) the California Air Resources Board pursuant to the California Low Carbon Fuel Standard Regulation as set forth in Title 17, California Code of Regulations (CCR), §95480 *et seq.*, (b) the Oregon Department of Environmental Quality pursuant to the Oregon Clean Fuels Program as set forth in Oregon Administrative Rules Chapter 340 Division 253 (OAR 340-243) and (c) in each case, each successor regulation.

"Lead Arranger" mean Riverstone Credit Partners II - Direct, L.P., in its capacity as sole lead arranger in respect of the Facilities.

"Lenders" means each financial institution listed on Annex I, as well as any registered assignee that becomes a "Lender" hereunder pursuant to Section 12.04(b) with respect to the Loans and/or Commitments, that, in each case, is a party to this Agreement.

"Lien" means any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on the common law, statute or contract, and whether such obligation or claim is fixed or contingent, and including (a) the lien or security interest arising from a mortgage, deed of trust, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

"Liquidity" means, as of any time of determination, the amount of Unrestricted Cash at such time.

"Loan Documents" means this Agreement, the Notes, the Security Documents, the Fee Letter, any agreement, instrument or certificate required to be delivered under this Agreement by or on behalf of any Loan Party and each other document designated as a Loan Document thereunder.

"Loan Parties" means, collectively, Parent, the Borrower and the Subsidiary Guarantors. "Loan Party" means Parent, the Borrower or a Subsidiary Guarantor, individually, as the context may require.

"Loans" means the term loans made by the Lenders to the Borrower on the Closing Date pursuant to Section 2.01(a).

"Majority Lenders" means, as of any date of determination, the holders of more than 50% of (a) on or prior to the Closing Date, the Commitments of all the Lenders then in effect or (b) after the Closing Date, the outstanding principal amount of the Loans of all Lenders then outstanding at such time (without regard to any sale by a Lender of a participation in any Loan under Section 12.04(c)).

"Material Adverse Effect" means a material adverse change in, or material adverse effect on, (a) the business, operations, Property, liabilities (actual or contingent) or financial condition of the Loan Parties and their Subsidiaries, taken as a whole, (b) the ability of any Loan Party to perform any of its obligations under any Loan Document to which it is a party, (c) the validity or enforceability of any Loan Document or (d) the rights and remedies of or benefits available to any Agent or any Lender under any Loan Document.

"Material Contracts" means the collective reference to (a) the Amazon Agreements, (b) the bp JV Contracts, (c) the TotalEnergies JV Contracts, (d) the PlasmaFlow JV Agreement, (e) any Permitted Additional JV Document and (f) any other contract or other arrangement (other than the Loan Documents) to which any Loan Party, any Material Joint Venture or any other Subsidiary is a party that generates, or is reasonably expected to generate, revenues or results in, or is reasonably expected to result in, liabilities to the Loan Parties and their Subsidiaries in excess of $10,000,000 in any fiscal year.

"Material Indebtedness" means any Indebtedness (other than the Loans and other Secured Obligations) of any one or more of the Loan Parties and their Subsidiaries in an aggregate principal amount exceeding $10,000,000.

"Material Joint Venture" means each of (a) the bp JV, (b) the TotalEnergies JV, (c) the TotalEnergies DR JV, (d) the PlasmaFlow JV, (e) any Permitted Additional TotalEnergies JV and (f) any other Permitted Additional JV.

"Material Real Property" means each of (a) the Boron Plant, (b) the Pickens Plant, (c) the top one hundred (100) natural gas fueling stations leased, licensed or fee owned by any Loan Party as of the date hereof, as determined by net book value as of September 30, 2022, which are set forth on Schedule 7.16 and (d) after the Closing Date, each natural gas fueling station constructed after the Closing Date and leased, licensed or fee owned by any Loan Party.

"Material Subsidiary" means any Subsidiary of Parent that is not an Immaterial Subsidiary.

"Maturity Date" means December 22, 2026.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto that is a nationally recognized rating agency.

"Mortgage" means each mortgage, deed of trust, leasehold mortgage, leasehold deed of trust or any other document creating and evidencing a Lien on real Property and other Property located on or related to such real Property, in favor of the Collateral Agent, for the benefit of the Secured Parties, which shall be substantially in the form of Exhibit M or otherwise in a form reasonably satisfactory to the Collateral Agent, including the Mortgages with respect to the Material Real Property set forth on Schedule 7.16 (to the extent such Mortgages are required pursuant to the terms hereof).

"Mortgaged Property" means any Material Real Property owned, leased or licensed by any Loan Party or any Subsidiary of any Loan Party which is subject to a Mortgage (or required to be subject to a Mortgage, pursuant to, and in accordance with, the terms hereof).

"Multiemployer Plan" means a multiemployer plan (as defined in Section 4001(a)(3) of ERISA) to which Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate (a) makes, or is obligated to make, contributions, (b) during the preceding five (5) plan years, has made, or been obligated to make, contributions or (c) has any actual or contingent liability.

"Necessary Permits" has the meaning assigned to such term in Section 7.17(a).

"Net Cash Proceeds" means, (a) with respect to (x) any Disposition by any Loan Party or any Subsidiary of any Loan Party or (y) any Casualty Event, the excess, if any, of (i) the sum of cash and cash equivalents received in connection with such Disposition or Casualty Event, as applicable, but only as and when so received, over (ii) the sum, without duplication, of (A) the reasonable out-of-pocket costs and expenses incurred by such Loan Party or Subsidiary in connection with such Disposition or Casualty Event, (B) all title and recording Tax expense and all federal, state, provincial, foreign and local income Taxes required to be paid in the then-current fiscal year or subsequent fiscal year as a consequence of such Disposition or Casualty Event, (C) with respect to any Disposition, any portion of the purchase price from such Disposition placed in escrow, whether as a reserve for adjustment of the purchase price, for satisfaction of indemnities in respect of such Disposition or otherwise in connection with such Disposition, provided, however, that upon the termination of that escrow, Net Cash Proceeds will be increased by any portion of funds in the escrow that are released to any Loan Party or its Subsidiaries, (D) reasonable reserves established for liabilities estimated to be payable in respect of such Casualty Event and deposited into escrow with a third party escrow agent on terms reasonably acceptable to the Administrative Agent or set aside in a separate deposit account that is subject to a control agreement in favor of the Administrative Agent and (F) any amounts required to be used to prepay Indebtedness permitted pursuant to Section 9.02 (other than the Secured Obligations or other secured Indebtedness that is secured by a Lien that is junior to the Lien securing the Secured Obligations) secured by the assets subject to such Disposition or Casualty Event; and (b) with respect to the issuance of any Indebtedness, the cash proceeds received from such issuance of Indebtedness, net of underwriting discounts and commissions and other reasonable and documented costs and expenses associated therewith, including reasonable and documented legal fees and expense.

"Net Income" means with respect to Parent and its Consolidated Subsidiaries, for any period, the aggregate of the net income (or loss) of Parent and its Consolidated Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded from such net income (or loss) (to the extent otherwise included therein) the following:

(a) all extraordinary or non-recurring gains, losses, charges or expenses;

(b) all gains or losses realized in connection with any Disposition of assets with a fair market value of $100,000 or more (other than inventory in the ordinary course of business) or the cancellation, unwind, retirement or early extinguishment of Indebtedness, on an after-tax basis;

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

(d) any non-cash compensation deduction as a result of any grant of stock or stock-related instruments to current or former employees, officers, directors or members of management;

(e) any income or loss from disposed or discontinued operations and any net after tax gains or losses on disposed or discontinued operations;

(f) any goodwill or other intangible asset impairment charge; and

(g) the net income (or loss) of any other Person in which Parent or any of its Consolidated Subsidiaries holds Equity Interests, except to the extent of the amount of dividends or distributions actually paid in cash in such period by such other Person to Parent or to a Consolidated Subsidiary.

"NG Advantage" means NG Advantage LLC, a Delaware limited liability company, being an indirect Subsidiary of the Borrower as of the Closing Date.

"Non-Consenting Lender" has the meaning assigned to such term in Section 5.06.

"Notes" means the promissory notes of the Borrower described in Section 2.02(c) and being substantially in the form of Exhibit A.

"NYFRB" means the Federal Reserve Bank of New York.

"Organizational Documents" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to such corporation) and any shareholders agreement; (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Connection Taxes" means, with respect to any recipient, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Taxes" means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes or any other excise Taxes arising from any payment made hereunder or from the execution, delivery, performance, registration or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.06).

"Parent" has the meaning assigned to such term in the introductory paragraph hereto.

"Participant" has the meaning assigned to such term in Section 12.04(c)(i).

"Participant Register" has the meaning assigned to such term in Section 12.04(c)(ii).

"Patent, Trademark and Copyright Security Agreements" means each patent security agreement, trademark security agreement and copyright security agreement, in substantially the form attached as exhibits to the Guarantee and Collateral Agreement or otherwise in a form reasonably acceptable to the Collateral Agent, each as executed and delivered by the applicable Loan Parties in favor of the Collateral Agent, for the benefit of the Secured Parties.

"Payment" has the meaning assigned to such term in Section 11.12(a).

"Payment in Full" means (a) the Commitments have expired or been terminated, (b) the principal of and premium (including any applicable Call Premium) on and interest on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents shall have been paid in full in cash (other than contingent indemnification obligations) and (c) all other Secured Obligations (other than contingent indemnification obligations) shall have been paid in full in cash.

"Payment Notice" has the meaning assigned to such term in Section 11.12(b).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in Section 4002 of ERISA, or any successor entity performing similar functions.

"Perfection Certificate" means a perfection certificate substantially in the form of Exhibit J or such other form reasonably acceptable to the Administrative Agent.

"Periodic Term SOFR Determination Day" has the meaning assigned to such term in the definition of "Term SOFR".

"Permitted Additional JV" means each joint venture formed after the Closing Date on such terms and conditions acceptable to the Administrative Agent in its sole and absolute discretion; provided that (a) the Administrative Agent (i) has received copies of the initial letter of intent, joint development agreement and/or similar agreement with respect to such potential joint venture and any additional information and documents furnished or received in connection therewith (including copies of the limited liability company agreement and other documents contemplated to govern such joint venture) and (ii) has agreed in writing, in its sole and absolute discretion, to permit Parent, the Borrower or any other Loan Party to enter into such additional joint venture and (b) the Organizational Documents of such joint venture are free of any restrictions or other limitations on granting a Lien (and enforcing such Lien) on the Equity Interests of such joint venture in favor of the Collateral Agent.

"Permitted Additional JV Document" means each document entered into by or assigned to any Permitted Additional JV after the Closing Date, including the Organizational Documents of such Permitted Additional JV, on such terms and conditions as the Administrative Agent has agreed to in its sole and absolute discretion.

"Permitted Additional TotalEnergies JV" means each joint venture formed after the Closing Date pursuant to the TotalEnergies JV Agreement on such terms and conditions and with such economics that are the same or better for CLNE and its Subsidiaries in all material respects as the terms, conditions and economics of the TotalEnergies DR JV, taken as a whole; provided that (a) the notice requirements set forth in Section 8.01(g) are satisfied with respect to such joint venture and (b) the Organizational Documents of such joint venture are free of any restrictions or other limitations on granting a Lien (and enforcing such Lien) on the Equity Interests of such joint venture in favor of the Collateral Agent.

"Permitted Cure Equity" means Qualified Equity Interests of Parent, which equity shall be common equity or other equity on terms and conditions reasonably acceptable to the Administrative Agent.

"Permitted Investments" means Investments permitted pursuant to Section 9.05.

"Permitted Liens" means Liens permitted pursuant to Section 9.03.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Pickens Plant" means that certain liquefied natural gas liquefaction plant located at 12114 Longstreet Road, Willis, Texas 77318.

"Plan" means any employee pension benefit plan, as defined in section 3(2) of ERISA, other than a Multiemployer Plan, which (a) is currently or hereafter sponsored, maintained or contributed to by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate or (b) was at any time during the six (6) calendar years preceding the date hereof, sponsored, maintained or contributed to by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate.

"PlasmaFlow JV" means PlasmaFlow, LLC, a Delaware limited liability company.

"PlasmaFlow JV Agreement" means the Second Amended and Restated Limited Liability Company Agreement of the PlasmaFlow JV, by CLNE PlasmaFlow Holdings, LLC, a Delaware limited liability company, and ThrivalTech, LLC, a Delaware limited liability company, and members, effective as of November 7, 2022.

"Prime Rate" means the "U.S. Prime Lending Rate" as published in *The Wall Street Journal* (or, if *The Wall Street Journal* ceases quoting a prime rate, the highest *per annum* rate of interest published by the Federal Reserve Board in Federal Reserve statistical release H.15 (519) entitled "Selected Interest Rates" as the bank prime loan rate or its equivalent). Any change in such prime rate shall take effect at the opening of business on the day specified in the public announcement of such change.

"Property" means any interest in any kind of property, right or asset, whether real, personal or mixed, or tangible or intangible (including cash, securities, accounts, contract rights, Intellectual Property and Equity Interests or other ownership interests of any Person), whether now in existence or owned, leased, otherwise held or hereafter acquired.

"Prudent Industry Practice" means, with respect to any Person, those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by a significant portion of the renewable natural gas industry or the alternative vehicle fueling industry, as good, safe and prudent practices in connection with construction, operation, maintenance, repair, improvement and use of equipment, facilities and improvements of such facilities or equipment, as applicable, with commensurate standards of safety, performance, dependability, efficiency and economy. Prudent Industry Practices does not necessarily mean one particular practice, method, equipment specification or standard in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Qualified Equity Interests" means, with respect to any Person, all Equity Interests of such Person that are not Disqualified Capital Stock.

"Quarterly Date" means March 31, June 30, September 30 and December 31 of each fiscal year (or, if such day is not a Business Day, the next preceding Business Day).

"Real Property Rights" means all of the rights-of-way, easements, other leases, consents, fee ownership, and other real property rights of the Loan Parties.

"Recipient" means (a) the Administrative Agent or (b) any Lender, as applicable.

"Redemption" means, with respect to any Indebtedness, the repurchase, redemption, prepayment, repayment, or defeasance or any other acquisition or retirement for value (or the segregation of funds with respect to any of the foregoing) of such Indebtedness. "Redeem" has the correlative meaning thereto.

"Register" has the meaning assigned to such term in Section 12.04(b)(iv).

"Regulation T" means Regulation T of the Board, as the same may be amended, supplemented or replaced from time to time.

"Regulation U" means Regulation U of the Board, as the same may be amended, supplemented or replaced from time to time.

"Regulation X" means Regulation X of the Board, as the same may be amended, supplemented or replaced from time to time.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors (including attorneys, accountants and experts) of such Person and such Person's Affiliates.

"Release" and "Threatened Release" have the meanings assigned to such terms as specified in CERCLA (but without giving effect to Section 101(22)(A), (B), (C), and (D) of CERCLA), as amended; provided, however, that (a) in the event that CERCLA is amended so as to broaden the meaning of the term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment and (b) to the extent the laws of the state or other jurisdiction in which any Property of any Loan Party or any Subsidiary of any Loan Party is located or which is otherwise relevant to any Loan Party establish a meaning for "release" that is broader than that specified in CERCLA, such broader meaning shall apply.

"Remedial Work" has the meaning assigned to such term in Section 8.10(a).

"Replacement Lender" has the meaning assigned to such term in Section 5.06.

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means, as to any Person, a chief executive officer, the president, any Financial Officer, general counsel or the corporate secretary of such Person, or if such Person does not have any such officer, an individual holding such position with a Person directly or indirectly managing its business and affairs. Unless otherwise specified, all references to a Responsible Officer herein means a Responsible Officer of Parent or the Borrower, as applicable.

"Restricted Payment" means (a) the payment of any dividend or making of any other payment or distribution (whether in cash, securities or other property) on account of any Loan Party's Equity Interests or to the direct or indirect holders of any Loan Party's Equity Interests in their capacity as such, (b) the purchase, redemption, acquisition, retirement for value, acquisition, cancellation or termination of any Loan Party's Equity Interests, (c) any payment or distribution (whether in cash, securities or other property) on account of any return of capital to any Loan Party's stockholders, partners or members (or the equivalent Person thereof), or (d) any payment by any Loan Party for any advisory, consulting, management or similar services provided by or payable to any Affiliate of the Borrower.

"RINs" means any "Renewable Identification Numbers" generated to represent a volume of renewable fuel as set forth in the U.S. Environmental Protection Agency's (or its successor agency's) Renewable Fuel Standard regulations as set forth in 40 C.F.R. Part 80.

"Riverstone Lender" means Riverstone Credit Partners II – Direct, L.P., Riverstone International Credit – Direct L.P., RCP II N Strategic Credit Partners – Direct, L.P., and/or their Affiliates party hereto as "Lenders".

"S&P" means S&P Global Ratings, a division of S&P Global Inc., and any successor thereto that is a nationally recognized rating agency.

"Sanctioned Country" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, the Crimea Region of Ukraine, Cuba, Iran, North Korea and Syria).

"Sanctioned Person" means, at any time, any Person with whom dealings are restricted or prohibited under Sanctions, including (a) any Person listed in any Sanctions-related list of designated Persons maintained by the United States (including by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or the U.S. Department of Commerce), or by the United Nations Security Council, the European Union or any EU member state, His Majesty's Treasury, or other relevant sanctions authority (b) any Person located, operating, organized or resident in a Sanctioned Country or (c) any Person directly or indirectly owned or controlled by any such Person or Persons.

"Sanctions" means economic or financial sanctions or trade embargoes or restricted measures imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state, His Majesty's Treasury of the United Kingdom or other relevant sanctions authority.

"SEC" means the Securities and Exchange Commission or any successor Governmental Authority.

"Secured Obligations" means (a) any and all amounts owing or to be owing (including interest accruing at any post-default rate and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, any other Loan Party or any of their Subsidiaries, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) by the Borrower or any other Loan Party (whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising) to the Administrative Agent, the Collateral Agent or any Lender or other Secured Party under any Loan Document or paid on behalf of any Loan Party or any of their Subsidiaries by the Administrative Agent or the Collateral Agent or any of their Affiliates and (b) all renewals, restatements, extensions and/or rearrangements of any of the above. Without limitation of the foregoing, the term "Secured Obligations" shall include the unpaid principal (including any amount owed in respect of a Specified Event) or premium (including any applicable Call Premium) of and interest on the Loans (including, without limitation, interest accruing at the then applicable rate provided in this Agreement after the maturity of the Loans and interest accruing at the then applicable rate provided in this Agreement after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to Parent, the Borrower or any of their Subsidiaries, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), reimbursement obligations and unpaid amounts, fees, expenses, indemnities, costs, and all other obligations and liabilities of every nature of Parent, the Borrower or any of their Subsidiaries, whether absolute or contingent, due or to become due, now existing or hereafter arising under this Agreement and the other Loan Documents.

"Secured Parties" means the Administrative Agent, the Collateral Agent, each Lender and each Indemnitee.

"Securities Accounts" means all "securities accounts" (as such term is defined in the UCC) of the Loan Parties.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Security Documents" means the Guarantee and Collateral Agreement, the Canadian Security Documents, the Control Agreements, the Mortgages, the Patent, Trademark and Copyright Security Agreements, the Perfection Certificate and any and all other agreements, instruments, consents or certificates now or hereafter executed and delivered by any Loan Party or any other Person in connection with, or as security for the payment or performance of the Secured Obligations, the Notes or this Agreement.

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"Solvency Certificate" means a solvency certificate substantially in the form of Exhibit D or such other form approved by the Administrative Agent.

"Solvent" means, with respect to any Persons as of any date, (a) the value of the assets of such Persons (both at fair value and present fair saleable value) is, on the date of determination, greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Persons as of such date, (b) such Persons will be able to pay all liabilities of such Persons as such liabilities mature, and (c) as of such date, such Persons does not have unreasonably small capital given the nature of its business. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Specified Event" has the meaning assigned to such term in Section 10.03(a).

"Subsidiary" means, with respect to any Person (the "parent") at any date, any other Person the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other Person (a) of which Equity Interests representing more than 50% of the equity or more than 50% of the ordinary voting power (irrespective of whether or not at the time Equity Interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) or, in the case of a partnership, any general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary Guarantors" means each Subsidiary of Parent or of the Borrower that is (or, pursuant to Section 8.12(d), is required to become) a party to the Guarantee and Collateral Agreement or that executes, or is required to execute, Canadian Security Documents in favor of the Collateral Agent, as applicable, as a "Guarantor", "Grantor" and/or "Debtor" (as such terms are defined in the Guarantee and Collateral Agreement or the applicable Canadian Security Document) and that guarantees (or is required to guarantee) the Secured Obligations. For the avoidance of doubt, Subsidiary Guarantors shall not include any Immaterial Subsidiary.

"Sustainability Assurance Provider" means any qualified external reviewer, independent of the Loan Parties, with relevant expertise, such as an auditor, environmental consultant and/or independent ratings agency of recognized national standing, proposed by the Borrower and reasonably approved by the Administrative Agent, which Sustainability Assurance Provider shall apply assurance standards and methodology consistent with generally accepted industry standards.

"Sustainability Certificate" means a certificate executed by an Responsible Officer and attaching (a) true and correct copy of the KPI Metrics Report for the most recently ended fiscal year and setting forth the Sustainability Rate Adjustment for the period covered thereby and computations in reasonable detail in respect thereof and (b) a limited assurance verification statement of the Sustainability Assurance Provider confirming that the Sustainability Assurance Provider is not aware of any modifications that should be made to the KPI Metrics Report in order for it to be presented in all material respects in conformity with the Sustainability-Linked Loan Principles.

"Sustainability Certificate Inaccuracy" has the meaning assigned to such term in Section 5.07(d).

"Sustainability-Linked Loan Coordinator" means Riverstone Credit Management LLC, in its capacity as sole sustainability-linked loan coordinator in respect of the Loans.

"Sustainability-Linked Loan Principles" means the voluntary recommended guidelines for categorizing loans as "sustainability-linked" published by the Loan Market Association, Asia Pacific Loan Market Association and Loan Syndications and Trading Association in March 2022 in relation to promoting the development and integrity of sustainability-linked loan products.

"Sustainability Pricing Adjustment Date" has the meaning assigned to such term in Section 5.07(a).

"Sustainability Rate Adjustment" means, with respect to a KPI Metrics Report, for any Sustainability Pricing Adjustment Date:

(a) positive 0.25%, if the KPI Metric for such period as set forth in the KPI Metrics Report for such Sustainability Pricing Adjustment Date is less than the KPI Threshold for such period (as applicable); and

(b) otherwise, 0.00%.

"Sustainability Recalculation Event" means the occurrence of any significant or structural changes in Parent (including acquisitions, divestitures, mergers, insourcing or outsourcing or a series of related transactions of such type), changes in methodology in respect of the KPI Metric, or changes in data reported due to improved calculation methodologies or better data accessibility, as determined in good faith by Parent, evidenced by a certificate of a Responsible Officer.

"Sustainability Report" means the annual non-financial disclosure report prepared in accordance with the Sustainability-Linked Loan Principles delivered to each Lender and the Administrative Agent.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, penalties and additions to taxes applicable thereto.

"Term SOFR" means, for any calculation (a) with respect to a Term SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "Periodic Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day, the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day and (b) with respect to an ABR Loan, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "ABR Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. on any ABR Term SOFR Determination Day, the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such ABR SOFR Determination Day.

"Term SOFR Adjustment" means, for any calculation with respect to (a) any ABR Loan in respect of clause (c) of the definition of "Alternate Base Rate" referencing the Adjusted Term SOFR, a rate *per annum* equal to 0.10% and (b) any Term SOFR Loan, (i) with a one-month Interest Period, a rate *per annum* equal to 0.10% and (ii) with a three-month Interest Period, a rate *per annum* equal to 0.15%.

"Term SOFR Administrator" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"Term SOFR Borrowing" means, as to any Borrowing, the Term SOFR Loans comprising such Borrowing.

"Term SOFR Loan" means a Loan that bears interest at a rate based on the Adjusted Term SOFR, other than pursuant to clause (c) of the definition of "Alternate Base Rate".

"Term SOFR Reference Rate" means the forward-looking term rate based on SOFR.

"Terminated Lender" has the meaning assigned to such term in Section 5.06.

"Test Date" means the last day of the most recent fiscal quarter of Parent for which the financial statements required by Section 8.01 were required to have been, or if earlier have been, delivered to the Administrative Agent, commencing with the fiscal quarter of Parent ending December 31, 2022.

"Test Period" means, as of any date of determination, the most recently completed four (4) consecutive fiscal quarters of Parent ending on or prior to such date.

"Title Company" means Commonwealth Land Title Insurance Company, or such other nationally recognized title insurance company selected by Borrower and reasonably acceptable to the Administrative Agent retained to issue the title insurance policies pursuant to the Loan Documents.

"Titled Vehicle" means any vehicle or equipment that is covered by a certificate of title under a statute of any jurisdiction under the law of which an indication of a security interest on such certificate is required as a condition to perfect of a security interest in such vehicle or equipment.

"Titled Vehicle of Significance" means any Titled Vehicle owned by any Loan Party with a net book value of $150,000 or more and any LNG trailers.

"Title Policy" has the meaning assigned to such term in Section 8.12(b)(i).

"Total Biogas" means Total Biogas Holdings USA, LLC, a Delaware limited liability company.

"TotalEnergies DR JV" means Del Rio Funding LLC, a Delaware limited liability company, a 50/50 joint venture between CERD and Total Biogas.

"TotalEnergies DR JV Agreement" means the Limited Liability Company Agreement of the TotalEnergies DR JV, dated as of October 12, 2021, between CERD and Total Biogas.

"TotalEnergies JV" means the 50/50 transactional joint venture between CERD and Total Biogas established to develop renewable natural gas production facilities or projects in the United States.

"TotalEnergies JV Agreement" means the Joint Venture Agreement, dated as of March 3, 2021, by and between CERD and Total Biogas, pursuant to which the parties agreed to invest in equal proportion in and monitor potential renewable natural gas projects.

"TotalEnergies JV Contracts" means each of (a) the TotalEnergies JV Agreement, (b) the TotalEnergies DR JV Agreement and (c) any Additional TotalEnergies JV Document.

"Total Funded Indebtedness" means, as of any date of determination, without duplication, all Indebtedness of Parent and its Consolidated Subsidiaries, whether incurred under this Agreement or otherwise, determined on a consolidated basis in accordance with GAAP, as of such date, other than any Indebtedness described in clause (b) of the definition thereof (except to the extent constituting non-contingent reimbursement obligations in respect of a draw on, or funding of, the applicable instrument). For purposes of making any determination of Total Funded Indebtedness for any period, such Indebtedness (including Indebtedness issued, incurred or assumed as a result of, or to finance, any relevant transactions and for which the financial effect is being calculated, but excluding normal fluctuations in revolving Indebtedness incurred for working capital purposes) issued, incurred, assumed or permanently repaid during such period shall be deemed to have been issued, incurred, assumed or permanently repaid on the first day of such period.

"Total Leverage Ratio" means, as of any date of determination, the ratio of (a) Total Funded Indebtedness as of the most recent Test Date on or prior to such date to (b) EBITDA for the Test Period ending on the most recent Test Date on or prior to such date.

"Total Loss" means, in relation to any Property affected by a Casualty Event that constitutes all or substantially all of the Property subject to such Casualty Event, any of the following: (a) the substantial destruction of such affected Property or the destruction of such affected Property beyond repair; (b) the destruction of such affected Property such that there remains no substantial portion thereof which a prudent owner, uninsured, desiring to restore such affected Property to its original condition would utilize as a basis of such restoration; or (c) the destruction of such affected Property such that the insured may claim the whole amount of any insurance policy covering such affected Property upon abandoning such affected Property to the insurance underwriters therefor.

"Transaction Costs" means all fees and expenses incurred or paid by Parent, the Borrower and their Subsidiaries in connection with the Transactions.

"Transactions" means, collectively, (a) with respect to (i) the Borrower, the execution, delivery and performance by the Borrower of this Agreement and each other Loan Document to which it is a party, the borrowing of Loans and the use of the proceeds thereof, and the grant of Liens by the Borrower on the Collateral pursuant to the Security Documents, (ii) each other Loan Party, the execution, delivery and performance by such Loan Party of each Loan Document to which it is a party, such Loan Party's guarantee of the Secured Obligations pursuant to the applicable Security Documents, and the grant of Liens by such Loan Party on the Collateral pursuant to the Security Documents, (b) the payment of Transaction Costs and other amounts in accordance with the Funds Flow Memorandum and (c) the repayment of all existing Indebtedness described in clauses (a) and (b) of the definition thereof of Parent, the Borrower and their Subsidiaries.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Alternate Base Rate or the Adjusted Term SOFR (other than in respect of clause (c) of the definition of "Alternate Base Rate" referencing the Adjusted Term SOFR).

"UCC" means the Uniform Commercial Code as in effect in the State of New York.

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unrestricted Cash" means, as of any time of determination, all cash or cash equivalents of the Loan Parties, other than cash and cash equivalents that appear as "restricted" on a consolidated balance sheet of Parent and its Consolidated Subsidiaries; provided that cash and cash equivalents of the Loan Parties shall not fail to constitute Unrestricted Cash solely as a result of such cash or cash equivalents being subject to a Control Agreement in favor of the Collateral Agent.

"U.S. Government Securities Business Day" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56), as amended.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Withholding Agent" means the Borrower, any Guarantor or the Administrative Agent.

"Withholding Certificate" has the meaning assigned to such term in Section 5.03(f)(ii)(B)(4).

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

"Working Capital" means, at any date, the excess of Current Assets on such date minus Current Liabilities on such date.

"Zero Balance Agreement" means the agreements governing Indebtedness of the Loan Parties reflected on the UCC financing statements identified on Schedule 1.01(b) hereto as of the Closing Date.

Section 1.02 Types of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings, respectively, may be classified and referred to by Type (*e.g.*, a "Term SOFR Loan" or a "Term SOFR Borrowing").

Section 1.03 Terms Generally; Rules of Construction. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", and the word "or" is not exclusive. The word "will" shall be construed to have the same meaning and effect as the word "shall". The use of the words "repay" and "prepay" and the words "repayment" and "prepayment" herein shall each have identical meanings hereunder. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in the Loan Documents), (b) except as otherwise provided herein, any reference herein to any law shall be construed as referring to such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to the restrictions contained in the Loan Documents), (d) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) with respect to the determination of any time period, the word "from" means "from and including" and the word "to" means "to and including", (f) unless otherwise specified, any reference herein to Articles, Sections, Annexes, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Annexes, Exhibits and Schedules to, this Agreement, (g) any reference to amounts "deposited" into or "on deposit" in any account shall be construed to include any cash equivalents or other amounts credited to such account, (h) the term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (i) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (j) all references to currencies, the Loans and to amounts payable hereunder and under the other Loan Documents shall be to United States dollars. The use of the phrase "subject to" as used in connection with Excepted Liens or otherwise and the permitted existence of any Excepted Liens or any other Liens shall not be interpreted to expressly or impliedly subordinate any Liens granted in favor of the Collateral Agent and the other Secured Parties as there is no intention to subordinate the Liens granted in favor of the Collateral Agent and the other Secured Parties. No provision of this Agreement or any other Loan Document shall be interpreted or construed against any Person solely because such Person or its legal representative drafted such provision.

Section 1.04 Accounting Terms and Determinations; GAAP. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all determinations with respect to accounting matters hereunder shall be made, and all financial statements and certificates and reports as to financial matters required to be furnished to the Administrative Agent or the Lenders hereunder shall be prepared, in accordance with GAAP, applied on a basis consistent with the financial statements except for changes in which Borrower's independent certified public accountants concur and which are disclosed to Administrative Agent on the next date on which financial statements are required to be delivered to the Lenders pursuant to Section 8.01(a); provided that, unless the Borrower and the Majority Lenders shall otherwise agree in writing, no such change shall modify or affect the manner in which compliance with the covenants contained herein is computed such that all such computations shall be conducted utilizing financial information presented consistently with prior periods; provided, further, that if at any time any change in GAAP or interpretation thereof by the independent auditors of any Loan Party or its Subsidiaries would require that operating leases entered into in the ordinary course of business be treated in a manner similar to financial leases under GAAP, all financial covenants, requirements and terms in this Agreement shall continue to be calculated as though no operating lease shall be treated as a Capital Lease for any purpose hereunder. All indemnification and release provisions of this Agreement shall be construed broadly (and not narrowly) in favor of the Persons receiving indemnification or being released.

Section 1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.06 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

Section 1.07 Interest Rates. The Administrative Agent and the Lenders do not warrant or accept responsibility for, and shall not have any liability with respect to the continuation of, administration of, submission of, calculation of or any other matter related to the Alternate Base Rate, the Term SOFR Reference Rate, the Adjusted Term SOFR or the Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto, including whether the composition or characteristics of any such alternative, successor or replacement rate will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Alternate Base Rate, the Term SOFR Reference Rate, the Adjusted Term SOFR or the Term SOFR prior to its discontinuance or unavailability. The Administrative Agent, the Lenders and their Affiliates or other related entities may engage in transactions that affect the calculation of the Alternate Base Rate, the Term SOFR Reference Rate, the Term SOFR, the Adjusted Term SOFR, any alternative, successor or replacement rate or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent (at the direction of the Majority Lenders) may select information sources or services in its reasonable discretion to ascertain the Alternate Base Rate, the Term SOFR Reference Rate, the Term SOFR or the Adjusted Term SOFR, in each case, pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

Section 1.08 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws), (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE CREDITS

Section 2.01 Commitments.

(a) Loans. Subject to and upon the terms and conditions set forth herein, each Lender severally, but not jointly, agrees to make Loans to the Borrower on the Closing Date in an amount equal to such Lender's Commitment. Each Lender's Commitment shall immediately terminate without further action upon the funding of such Lender's Loan pursuant to this Section 2.01(a).

(b) Nature of Loans. Any amounts borrowed hereunder and repaid or prepaid may not be reborrowed.

Section 2.02 Loans and Borrowings.

(a) Borrowings; Several Obligations. The Loans made on the Closing Date pursuant to the Commitments shall be made as part of one or more Borrowings on the Closing Date consisting of Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Types of Loans. Subject to Section 3.03, each Borrowing shall be comprised entirely of ABR Loans or Term SOFR Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate or Approved Fund of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) Notes. Any Lender may request that the Loans made by it be evidenced by a single promissory note of the Borrower in substantially the form of Exhibit A, dated, in the case of (i) any Lender party hereto as of the date of this Agreement, as of the date of this Agreement or (ii) any Lender that becomes a party hereto pursuant to an Assignment and Assumption, as of the effective date of the Assignment and Assumption, in each case, payable to such Lender or its registered assigns in a principal amount equal to the aggregate principal amount of its Loans as in effect on such date, and otherwise duly completed. In the event that the aggregate principal amount of any Lender's Loans increases or decreases for any reason (whether pursuant to Section 12.04(b) or otherwise), upon the request of such Lender, the Borrower shall deliver or cause to be delivered on the effective date of such increase or decrease, a new Note payable to such Lender or its registered assigns in a principal amount equal to the aggregate principal amount of its Loans after giving effect to such increase or decrease, and otherwise duly completed. The Borrower's obligation to deliver a Note evidencing Loans for which the Borrower has previously delivered a Note shall be subject to Borrower's receipt of such previously-delivered Note or satisfactory indemnity therefor in Borrower's good faith discretion. The replaced Note shall be deemed cancelled upon delivery from the Borrower to the Lender of such new Note. The date, amount, Type, interest rate and, if applicable, Interest Period of each Loan made by each Lender, and all payments made on account of the principal thereof, shall be recorded by such Lender on its books for its Note, and, prior to any transfer, may be recorded by such Lender on a schedule attached to such Note or any continuation thereof or on any separate record maintained by such Lender. Failure to make any such notation or to attach a schedule shall not affect any Lender's or the Borrower's rights or obligations in respect of such Loans or affect the validity of such transfer by any Lender of its Note.

Section 2.03 Requests for Borrowings.

(a) To request a Borrowing of Loans on the Closing Date, the Borrower shall deliver (including via e-mail) to the Administrative Agent a written and irrevocable Borrowing Request not later than 2:00 p.m., New York City time, at least one (1) Business Day in advance of the Closing Date, requesting that the Lenders make the Loans on the Closing Date and specifying:

(i) the aggregate amount of the requested Borrowing;

(ii) the proposed Borrowing Date, which shall be a Business Day;

(iii) whether such Borrowing is to be an ABR Borrowing or a Term SOFR Borrowing;

(iv) in the case of a Term SOFR Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(v) the location and number of the Borrower's account to which funds are to be disbursed.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be a Term SOFR Borrowing.

(b) Promptly following receipt of a Borrowing Request in accordance with Section 2.03(a), the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 Interest Elections.

(a) Conversion and Continuance. Each Borrowing initially shall be of the Type specified in the Borrowing Request delivered pursuant to Section 2.03 and, in the case of a Term SOFR Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Term SOFR Borrowing, may elect Interest Periods therefor, all as provided in this Section 2.04. The Borrower may not elect different options with respect to different portions of the affected Borrowing. Each conversion to or continuance of a Borrowing shall be in a principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof (or the entire balance thereof).

(b) Interest Election Requests. To make an election pursuant to this Section 2.04, the Borrower shall notify the Administrative Agent of such election in writing by (i) in the case of continuation of or conversion to a Term SOFR Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the last day of the current Interest Period or date of conversion, or (ii) in the case of conversion to an ABR Borrowing, not later than 11:00 a.m., New York City time, one (1) Business Day before the date of conversion. Each such written Interest Election Request shall be irrevocable and delivered by e-mail to the Administrative Agent and be signed by the Borrower.

(c) Information in Interest Election Requests. Each written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies;

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Term SOFR Borrowing; and

(iv) if the resulting Borrowing is a Term SOFR Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

(d) Notice to Lenders by the Administrative Agent. Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) Effect of Failure to Deliver Timely Interest Election Request and Events of Default on Interest Election. If the Borrower fails to deliver a timely Interest Election Request with respect to a Term SOFR Borrowing prior to the end of the Interest Period applicable thereto (which, for the avoidance of doubt shall be three (3) Business Days prior to the end of the Interest Period), then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Term SOFR Borrowing with an Interest Period of equal duration as the immediately preceding Interest Period. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing: (i) no outstanding Borrowing may be converted to or continued as a Term SOFR Borrowing (and any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Term SOFR Borrowing shall be ineffective) and (ii) unless repaid, each Term SOFR Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.05 Funding of Borrowings.

(a) Funding by Lenders. Each Lender shall make each Loan to be made by it hereunder on the Closing Date by wire transfer of immediately available funds by 1:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. Upon receipt of all requested Loan funds, the Administrative Agent will make such Loans available to the Borrower by promptly wire-transferring the amounts so received, in like funds, to the accounts designated by the Borrower in the applicable Borrowing Request in accordance with Section 2.03. Nothing herein shall be deemed to obligate any Lender to obtain the funds for its Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for its Loan in any particular place or manner.

(b) Presumption of Funding by the Lenders. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.05(a) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

ARTICLE III
PAYMENTS OF PRINCIPAL AND INTEREST; PREPAYMENTS; FEES

Section 3.01 Repayment of Loans. The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the unpaid principal amount of each Loan on the Maturity Date.

Section 3.02 Interest.

(a) ABR Loans. The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Margin, but in no event to exceed the Highest Lawful Rate.

(b) Term SOFR Loans. The Loans comprising each Term SOFR Borrowing shall bear interest at the Adjusted Term SOFR for the Interest Period in effect for such Borrowing plus the Applicable Margin, but in no event to exceed the Highest Lawful Rate.

(c) Post-Default Rate.

(i) Secured Obligations. The Secured Obligations shall automatically bear interest, after as well as before judgment, from the date of occurrence of any Event of Default until such Event of Default is no longer continuing at a rate *per annum* equal to (i) in the case of principal of any Loan, 2.00% *per annum* plus the rate otherwise applicable to such Loan or (ii) in the case of any other amounts, the sum of the rate of interest applicable under to ABR Loans plus an additional 2.00% *per annum* on such amount, but in no event to exceed the Highest Lawful Rate (with such interest to be retroactive to the date of such Event of Default).

(ii) Acknowledgment. The Borrower acknowledges that the increase in rates referred to in this Section 3.02(c) reflects, among other things, the fact that such Loans or other amounts have become a substantially greater risk given their default status and that the Lenders are entitled to additional compensation for such risk, and all such interest shall be payable by the Borrower upon demand by the Majority Lenders or by the Administrative Agent at the written direction of the Majority Lenders.

(d) Interest Payment Dates. Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date and shall be paid in cash; provided that (i) interest accrued pursuant to Section 3.02(c) shall be payable on demand in cash, (ii) in the event of any repayment or prepayment of any Loan (including on the Maturity Date, upon acceleration or otherwise), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment in cash, and (iii) in the event of any conversion of any Term SOFR Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) Interest Rate Computations. All interest hereunder shall be computed on the basis of a year of 360 days, unless such computation would exceed the Highest Lawful Rate, in which case interest shall be computed on the basis of a year of 365 days (or 366 days in a leap year), except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For the avoidance of doubt, no date of payment shall be included in any computation. The Alternate Base Rate or the Adjusted Term SOFR, as applicable, shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error, and be binding upon the parties hereto.

Section 3.03 Alternate Rate of Interest.

(a) If, prior to the commencement of any Interest Period:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining Adjusted Term SOFR for such Interest Period; or

(ii) the Administrative Agent is advised by the Majority Lenders that Adjusted Term SOFR for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by e-mail or telephone as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, each Borrowing shall be made as an ABR Borrowing.

(b) If, at any time, the Majority Lenders determine (which determination shall be conclusive and binding absent manifest error) that (i) the circumstances set forth in Section 3.03(a) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in Section 3.03(a) have not arisen but (w) the Term SOFR Administrator has made a public statement or published information that the Term SOFR Administrator has ceased or is insolvent (and there is no successor administrator that will continue publication of Term SOFR), (x) the Term SOFR Administrator has made a public statement or has published information (or a public statement or information is published on its behalf) which states that Term SOFR will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the Term SOFR), (y) the supervisor for the Term SOFR Administrator, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the Term SOFR Administrator, a resolution authority with jurisdiction over the Term SOFR Administrator or a court or an entity with similar insolvency or resolution authority over the Term SOFR Administrator has made a public statement or has published information which states that the Term SOFR Administrator has ceased or is insolvent or Term SOFR will permanently or indefinitely cease to be published or (z) the supervisor for the Term SOFR Administrator or a Governmental Authority has made a public statement identifying or has published information which states that Term SOFR is no longer representative or Term SOFR may no longer be used for determining interest rates for dollar-denominated credit facilities, then the Majority Lenders and the Borrower (in consultation with the Administrative Agent as to the administrability of such alternate rate) shall endeavor to establish an alternate rate of interest as a replacement to Term SOFR that gives due consideration to the then prevailing or evolving market convention for determining a rate of interest for dollar-denominated credit facilities or other comparable debt instruments in the United States at such time and shall enter into (and direct the Administrative Agent to enter into) an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable. Until an alternate rate of interest shall be determined in accordance with this Section 3.03(b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 3.03(b), only to the extent Term SOFR for such Interest Period is not available or published at such time on a current basis), any outstanding Term SOFR Loans shall be converted, on the last day of the then-current Interest Period, to ABR Loans. If any such alternate rate of interest established in lieu of Term SOFR through this Section 3.03 shall be less than 1.50%, such rate shall be deemed to be 1.50% for purposes of this Agreement.

Section 3.04 Prepayments.

(a) Optional Prepayments.

(i) Optional Prepayments Generally. The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part in an amount of not less than $5,000,000 and integral multiples of $1,000,000 in excess of that amount or, if less, the entire outstanding principal amount of the Borrowings under the Facility, subject to prior notice in accordance with Section 3.04(a)(ii). Prepayments pursuant to this Section 3.04(a)(i) shall, in each case, be accompanied by the payment of the Call Premium and all accrued interest on the amount prepaid together with any additional payments to the extent required by Section 5.02.

(ii) Notice and Terms of Optional Prepayments. The Borrower shall notify the Administrative Agent in writing by e-mail or other electronic transmission of any prepayment under Section 3.04(a) not later than 12:00 noon, New York City time, three (3) Business Days before the date of prepayment (or such shorter time period as to which the Administrative Agent shall agree). Each such notice shall be irrevocable and shall in the case of a prepayment specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is conditioned upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness or the occurrence of some other identifiable event or condition, such notice may be revoked by the Borrower (by written notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied (it being understood that the requirements of Section 5.02 shall apply to any failure of such condition to occur and any such revocation). Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each prepayment of Borrowings pursuant to Section 3.04(a) shall be applied, first, ratably to any ABR Borrowings then outstanding, and, second, to any Term SOFR Borrowings then outstanding. Each prepayment of Borrowings pursuant to Section 3.04(a) shall be applied ratably to the Loans included in the prepaid Borrowings.

(b) Mandatory Prepayments.

(i) Dispositions; Casualty. If any Loan Party or any Subsidiary of any Loan Party (other than a Foreign Subsidiary that is not a Loan Party to the extent that application of Net Cash Proceeds under this Section 3.04(b)(i) would result in material adverse tax consequences to any Loan Party or any of its Subsidiaries) receives Net Cash Proceeds in excess of $1,000,000 in respect of any Casualty Event or other Disposition (other than any Disposition permitted under Section 9.10(a), Section 9.10(c), Section 9.10(d), Section 9.10(e), Section 9.10(g), Section 9.10(h), Section 9.10(j), Section 9.10(l) or Section 9.10(m)(i)) then, within three (3) Business Days thereafter, the Borrower shall prepay the principal amount of the Loans in an amount equal to the lesser of 100% of such Net Cash Proceeds in excess of $1,000,000 and the outstanding principal in accordance with Section 3.04(b)(vii); provided that, in the case of any Disposition (including, for the avoidance of doubt, any Casualty Event), upon written notice by the Borrower to the Administrative Agent not more than three (3) Business Days following receipt of Net Cash Proceeds from such Disposition, such Net Cash Proceeds shall be excluded from the prepayment requirements of this Section 3.04(b)(i) if both (A) the Borrower delivers to the Administrative Agent a certificate of a Responsible Officer certifying that (I) the applicable Loan Party or Subsidiary intends to apply the Net Cash Proceeds (or a portion thereof specified in such notice) from such Disposition within one (1) year after receipt of such Net Cash Proceeds (which one (1) year period shall be extended by an additional six (6) months to the extent that the applicable Loan Party or Subsidiary has committed to reinvest such Net Cash Proceeds during such initial one (1) year period), to reinvest in the business of Parent, the Borrower or any other Loan Party (any such event, a "Reinvestment") (provided that, to the extent the Property disposed of constitutes Collateral, such Net Cash Proceeds must be reinvested in property that constitutes Collateral), (II) no Default or Event of Default exists prior to giving such notice or Reinvestment or will result after giving effect to such Reinvestment and (III) before and after giving effect to such Reinvestment, the Borrower will be in pro forma compliance with the Financial Covenants, and (B) within one (1) year (or, to the extent that the applicable Loan Party or Subsidiary has committed to reinvest such Net Cash Proceeds during such initial one (1) year period, eighteen (18) months) from the date of receipt of such Net Cash Proceeds, such Net Cash Proceeds are actually applied to such Reinvestment; provided, however, that the amount of such Net Cash Proceeds that (x) the applicable Loan Party or Subsidiary shall have determined not to, or shall have otherwise ceased to, or is not able to, by operation of contract or law or otherwise (including not being able to make the certifications required pursuant to Section 3.04(b)(i)(A) above), apply toward a Reinvestment or (y) have not been so applied toward a Reinvestment by the end of such one (1) year period (or, if such initial one (1) year period has been extended in accordance with immediately preceding proviso, eighteen (18) month period), in each case, shall be applied to a mandatory prepayment of the Loans in accordance with Section 3.04(b)(vii). Notwithstanding anything to the contrary contained in the foregoing, in the case of (1) a Total Loss or (2) a Condemnation Event, in each case, with respect to a portion of any Property of any Loan Party or its Subsidiaries having a value in excess of $10,000,000, unless the Administrative Agreement otherwise agrees in writing, the Borrower shall apply, or shall cause to be applied, all Net Cash Proceeds received in respect of such Total Loss or Condemnation Event, as applicable, to the prepayment of the Loans in accordance with Section 3.04(b)(vii).

(ii) Extraordinary Net Cash Receipts. Promptly (but in no event later than one (1) Business Day) following the receipt of Extraordinary Net Cash Receipts by any Loan Party or any Subsidiary of any Loan Party (other than a Foreign Subsidiary that is not a Loan Party to the extent the application of Extraordinary Net Cash Receipts under this Section 3.04(b)(ii) would result in material adverse tax consequences to any Loan Party or any of its Subsidiaries), the Borrower shall use, or shall cause to be used, 100% of such Extraordinary Net Cash Receipts to prepay the Loans in accordance with Section 3.04(b)(vii).

(iii) Indebtedness. Immediately upon the receipt of any Debt Incurrence Proceeds by any Loan Party or any Subsidiary of any Loan Party (other than Debt Incurrence Proceeds in respect of any Indebtedness permitted to be issued or incurred pursuant to Section 9.02), the Borrower shall use, or shall cause to be used, 100% of such Debt Incurrence Proceeds to prepay the Loans in accordance with Section 3.04(b)(vii).

(iv) Change in Control. Upon a Change in Control, the Borrower shall prepay all outstanding Loans in accordance with Section 3.04(b)(vii).

(v) Excess Cash Sweep. Upon the earlier of (A) delivery of financial statements under Section 8.01(a) or (B) the on which financial statements were required to have been delivered under Section 8.01(a) (in each case, commencing with the financial statements covering the fiscal year ending December 31, 2022), the Borrower shall prepay the Loans in an amount equal to 100% of Excess Cash Flow for the fiscal year covered by such financial statements; provided that, if Liquidity would be less than $25,000,000 after giving effect to such prepayment, the Borrower shall instead be required to prepay the Loans with the portion of such Excess Cash Flow that would cause Liquidity to equal $25,000,000 after giving effect to such prepayment. Together with each repayment under this Section 3.04(b)(v), the Borrower shall deliver a certificate from a Financial Officer setting forth in reasonable detail the calculation of Excess Cash Flow for the applicable period.

(vi) Equity Cure. Immediately upon receipt by Parent of the proceeds of any Permitted Cure Equity pursuant to Section 10.02, the Borrower shall cause to be prepaid the outstanding principal of the Loans in accordance with Section 3.04(b)(vii) in an amount equal to 100% of such proceeds.

(vii) Terms of Mandatory Prepayments. Each prepayment of Borrowings pursuant to this Section 3.04(b) shall be applied, first, ratably, to any ABR Borrowings included in the prepaid Borrowings, and, second, to any Term SOFR Borrowings included in the prepaid Borrowings. Each prepayment of Borrowings pursuant to this Section 3.04(b) shall be applied ratably to the Loans included in the prepaid Borrowings. Prepayments pursuant to this Section 3.04(b) shall, in each case, be accompanied by the payment of the Call Premium and all accrued interest on the amount prepaid together with any additional payments to the extent required by Section 5.02. The Borrower shall provide written notice to the Administrative Agent, not later than 12:00 noon, New York City time, one (1) Business Day (or three (3) Business Days if such prepayment results from a voluntary event) (in each case, or such shorter time period as to which the Administrative Agent shall agree) prior to each prepayment required under this Section 3.04(b), and such notice shall include a certificate signed by a Financial Officer setting forth in reasonable detail the calculation of the amount of such prepayment. Each notice of prepayment shall specify the prepayment date, the Type of each Loan being prepaid and the principal amount of each Loan (or portion thereof) to be prepaid.

(c) Call Premium. Prepayments of Loans permitted or required under this Section 3.04 (including optional prepayments described in Section 3.04(a) and mandatory prepayments described in Section 3.04(b)) and including, for avoidance of doubt, any prepayments of the Loans occurring after acceleration of the Loans pursuant to Section 10.03 and any other prepayments of the Loans (which payments, for the purpose of calculating the Call Premium, shall be deemed to have been made immediately prior to the date of acceleration, if earlier than the date of payment and on the amount of Loans outstanding on the date of acceleration, if more than the amount paid on the date of payment) shall be subject to payment of the Call Premium and any amounts required to be paid pursuant to Section 5.02.

Section 3.05 Fees.

(a) Agent and Other Fees. The Borrower agrees to pay to the Administrative Agent, the Collateral Agent and each Lender, in each case, for its own account, the fees payable in the amounts and at the times (including the fees payable to the Lenders on the Closing Date) separately agreed upon in the Fee Letter.

(b) Original Issue Discount. On the Closing Date, each Lender will fund such Lender's Loan net of an amount equal to 1.00% of the amount of such Lender's Commitment. Such discount shall be treated as original issue discount for U.S. federal and applicable state income tax purposes.

ARTICLE IV
PAYMENTS; PRO RATA TREATMENT; SHARING OF SET-OFFS

Section 4.01 Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Payments by the Borrower. The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or of amounts payable under Section 5.01, Section 5.02, Section 5.03 or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without defense, deduction, recoupment, set-off or counterclaim. Fees, once paid, shall be fully earned and shall not be refundable under any circumstances, absent manifest error. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices or accounts specified in Section 12.01 or such other offices or accounts as the Administrative Agent shall specify to the Borrower in writing from time to time, except that payments pursuant to Section 5.01, Section 5.02, Section 5.03 and Section 12.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) Application of Insufficient Payments. Each payment (including each prepayment) by the Borrower on account of principal and interest on the Loans shall be made to the Administrative Agent for the *pro rata* benefit of the Lenders according to the respective outstanding principal amounts of the Loans then held by the Lenders. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) *first*, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) *second*, towards payment of principal and premium then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) Sharing of Payments by Lenders. If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall promptly remit such excess amount to the Administrative Agent for the pro rata benefit of the Lenders. If such Lender fails to promptly remit such excess amount to the Administrative Agent, then such Lender shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that if (i) any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this Section 4.01(c) shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or any Affiliate thereof (as to which the provisions of this Section 4.01(c) shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

Section 4.02 Presumption of Payment by the Borrower. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

Section 4.03 Certain Deductions by the Administrative Agent. If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05, Section 4.02, Section 5.03(d) or Section 12.03(c), then the Administrative Agent may, in its sole discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

ARTICLE V
INCREASED COSTS; BREAK FUNDING PAYMENTS; TAXES; ILLEGALITY

Section 5.01 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirements, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes or (B) Excluded Taxes) on its loans, loan principal, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender or such other Recipient (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in Section 5.01(a) or Section 5.01(b) shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Effect of Failure or Delay in Requesting Compensation. Failure or delay on the part of any Lender to demand compensation pursuant to this Section 5.01 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section 5.01 for any increased costs or reductions incurred more than 365 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 365-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 5.02 Break Funding Payments. The Borrower shall compensate each Lender for the loss, cost and expense attributable to any of the following (a) the payment of any principal of any Term SOFR Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Term SOFR Loan into an ABR Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Term SOFR Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Term SOFR Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 5.04. In the case of a Term SOFR Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted Term SOFR that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 5.02 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

Section 5.03 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes; provided that if an applicable Withholding Agent shall be required under any applicable law (as determined in its good faith discretion) to deduct or withhold any Taxes from such payments, then the applicable Withholding Agent shall be entitled to make such deductions or withholdings, shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law, and if such Taxes are Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section 5.03), the Administrative Agent, the Collateral Agent, Lender or other Recipient (as the case may be) receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) Payment of Other Taxes by the Borrower. Without duplication of any amount paid pursuant to Section 5.03(a), each of Parent and the Borrower shall, and shall cause its Subsidiaries to, timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent or the Collateral Agent timely reimburse it for the payment of, any Other Taxes.

(c) Indemnification by the Borrower. The Loan Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any and all reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability from the Administrative Agent (on its own behalf or on behalf of a Lender), the Collateral Agent or a Lender (with a copy to the Administrative Agent) shall be delivered to the Borrower and shall be conclusive absent manifest error.

(d) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.04(c)(ii) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 5.03(d).

(e) Evidence of Payments. As soon as practicable after any payment of any Taxes by the Borrower or a Guarantor to a Governmental Authority pursuant to this Section 5.03, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Withholding Certificates.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments under this Agreement or any other Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than the documentation set forth in Section 5.03(f)(ii)(A), Section 5.03(f)(ii)(B) and Section 5.03(f)(ii)(D)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Foreign Lender shall, to the extent that it is legally entitled to do so, deliver to the Borrower and the Administrative Agent, on or prior to the Closing Date (or, in the case of any Foreign Lender that is an assignee of a Lender, on the date such assignee becomes a party to this Agreement) and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent, whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) executed copies of IRS Form W-8EXP;

(4) in the case of any Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit I-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "Withholding Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BEN-E; or

(5) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, IRS Form W-8 EXP, a Withholding Certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Withholding Certificate substantially in the form of Exhibit I-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under this Agreement would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Borrower and Administrative Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower and Administrative Agent as may be necessary for the Borrower and Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for the purposes of this Section 5.03(f)(ii)(D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expired or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.03 (including by the payment of additional amounts pursuant to this Section 5.03), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.03 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party incurred in connection with such refund and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 5.03(g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 5.03(g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.03(g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 5.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) Defined Terms. For purpose of this Section 5.03, the term "applicable law" includes FATCA.

Section 5.04 Mitigation Obligations; Designation of Different Lending Office. If any Lender requests compensation under Section 5.01, or if any Loan Party is required to indemnify any Lender or pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 5.03, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (a) would eliminate or reduce amounts payable pursuant to Section 5.01 or Section 5.03, as the case may be, in the future and (b) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 5.05 Illegality. Notwithstanding any other provision of this Agreement, in the event that it becomes unlawful for any Lender or its applicable lending office to honor its obligation to make or maintain Term SOFR Loans either generally or having a particular Interest Period hereunder, then (a) such Lender shall promptly notify the Borrower and the Administrative Agent thereof and such Lender's obligation to make such Term SOFR Loans shall be suspended (the "Affected Loans") until such time as such Lender may again make and maintain such Term SOFR Loans and (b) all Affected Loans which would otherwise be made by such Lender shall be made instead as ABR Loans (and, if such Lender so requests by notice to the Borrower and the Administrative Agent, all Affected Loans of such Lender then outstanding shall be automatically converted into ABR Loans on the date specified by such Lender in such notice) and, to the extent that Affected Loans are so made as (or converted into) ABR Loans, all payments of principal which would otherwise be applied to such Lender's Affected Loans shall be applied instead to its ABR Loans.

Section 5.06 Removal or Replacement of a Lender. Anything contained herein to the contrary notwithstanding, in the event that: (a) (i) any Lender (an "Increased-Cost Lender") shall give notice to Borrower that such Lender is an affected Lender or that such Lender is entitled to receive payments under Section 5.01, Section 5.03 or Section 5.04, (ii) the circumstances which have caused such Lender to be an affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (iii) such Lender shall fail to withdraw such notice within five (5) Business Days after the Borrower's request for such withdrawal or (b) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 12.02, the consent of the Majority Lenders shall have been obtained but the consent of one or more of such other Lenders (each a "Non-Consenting Lender") whose consent is required shall not have been obtained, then, with respect to each such Increased Cost Lender and Non-Consenting Lender (each, a "Terminated Lender"), the Administrative Agent may, by giving written notice to the Borrower (which, in the case of an Increased-Cost Lender, only after receiving written request from the Borrower to remove such Increased-Cost Lender), or the Borrower may, by giving written notice to the Administrative Agent, and, in each case, any Terminated Lender of its election to do so, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans and Commitments in full to one or more Persons (each a "Replacement Lender") in accordance with the provisions of Section 12.04 and the Terminated Lender shall pay any fees payable thereunder in connection with such assignment; provided that (1) on the date of such assignment, the Replacement Lender shall pay to such Terminated Lender an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender; (2) on the date of such assignment, the Borrower shall pay any amounts payable to such Terminated Lender pursuant to Section 5.01 or Section 5.03; and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender. Upon the prepayment of all amounts owing to any Terminated Lender, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided that any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender. Each party hereto agrees that (x) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee, and (y) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided that any such documents shall be without recourse to or warranty by the parties thereto.

Section 5.07 Sustainability Adjustments.

(a) Following the date on which Parent or the Borrower provides a Sustainability Certificate in respect of the fiscal year ending December 31, 2025, the Applicable Margin shall be increased, as applicable, pursuant to the Sustainability Rate Adjustment as set forth in such Sustainability Certificate. For purposes of the foregoing, the Sustainability Rate Adjustment shall be applied retroactively to commence as of December 31, 2025 based upon the KPI Metric set forth in such Sustainability Certificate and the calculations of the Sustainability Rate Adjustment therein (such day, the "Sustainability Pricing Adjustment Date").

(b) For the avoidance of doubt, only one Sustainability Certificate may be delivered in respect of any fiscal year. It is further understood and agreed that the Applicable Margin will never be increased by more than 0.25% in the aggregate pursuant to the Sustainability Rate Adjustment.

(c) It is hereby understood and agreed that if no such Sustainability Certificate is delivered by Parent or the Borrower with regard to the fiscal year ended December 31, 2025 within the period set forth in Section 8.01(r), the KPI Threshold will be deemed not to have been met until Parent or the Borrower delivers a Sustainability Certificate to the Administrative Agent for such fiscal year.

(d) If (i)(A) any Lender becomes aware of any material inaccuracy in the Sustainability Rate Adjustment or the KPI Metric as reported in the Sustainability Certificate (any such material inaccuracy, a "Sustainability Certificate Inaccuracy") and such Lender delivers a written notice to the Administrative Agent describing such Sustainability Certificate Inaccuracy in reasonable detail (which description shall be shared with each Lender and the Borrower) or (B) a Loan Party becomes aware of a Sustainability Certificate Inaccuracy and (ii) a proper calculation of the Sustainability Rate Adjustment or the KPI Metric would have resulted in an increase in the Applicable Margin for any period, the Borrower shall be obligated to pay to the Administrative Agent for the account of the applicable Lenders promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code (or any comparable event under non-U.S. debtor relief laws), automatically and without further action by the Administrative Agent or any Lender), but in any event within fifteen (15) Business Days after the Borrower has received written demand from the Administrative Agent following receipt of a written notice from any Lender of (in the case of Section 5.07(d)(i)(A) and Section 5.07(d)(ii) above), or have agreed in writing that there was (in the case of Section 5.07(d)(i)(B) above), a Sustainability Certificate Inaccuracy, an amount equal to the excess of (1) the amount of interest and fees that should have been paid for such period over (2) the amount of interest and fees actually paid for such period (the "True-Up Amount"). If any Loan Party becomes aware of any Sustainability Certificate Inaccuracy and, in connection therewith, if a proper calculation of the Sustainability Rate Adjustment or the KPI Metric would have resulted in the Applicable Margin remaining the same for any period, then, upon receipt by the Administrative Agent of notice from Parent or the Borrower of such Sustainability Certificate Inaccuracy (which notice shall include corrections to the calculations of the Sustainability Rate Adjustment or the KPI Metric, as applicable), commencing on the fifth (5th) Business Day following receipt by the Administrative Agent of such notice, the Applicable Margin shall be adjusted (but only with respect to periods commencing after such fifth (5th) Business Day) to reflect the corrected calculations of the Sustainability Rate Adjustment or the KPI Metric, as applicable, for all periods occurring no sooner than five (5) Business Days after receipt by the Administrative Agent of such notice. For the avoidance of any doubt, the parties agree that any such adjustment to reflect a decrease in the Applicable Margin for any period shall only be effective on a prospective basis and shall not require any adjustments to amounts previously paid by the Borrower prior to the discovery of a Sustainability Certificate Inaccuracy.

(e) It is understood and agreed that any Sustainability Certificate Inaccuracy shall not constitute a Default or Event of Default; provided that the Borrower complies with the terms of Section 5.07(d) and Section 8.01(s) with respect to such Sustainability Certificate Inaccuracy. Notwithstanding anything to the contrary herein, unless such amounts shall be due upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code (or any comparable event under non-U.S. debtor relief laws), (i) any additional amounts required to be paid pursuant to the immediately preceding paragraph shall not be due and payable until the earlier to occur of (x) fifteen (15) Business Days after written demand for such payment by the Administrative Agent (in the case of Section 5.07(d)(i)(A) and Section 5.07(d)(ii) above) or (y) fifteen (15) Business Days after the Borrower has agreed in writing that there was (in the case of Section 5.07(d)(i)(B) above), a Sustainability Certificate Inaccuracy (such date, the "Certificate Inaccuracy Payment Date"), (ii) any nonpayment of such additional amounts prior to the Certificate Inaccuracy Payment Date shall not constitute a Default (whether retroactively or otherwise) and (iii) none of such additional amounts shall be deemed overdue prior to the Certificate Inaccuracy Payment Date or shall accrue interest at the post-default rate set forth in Section 3.02(c) prior to the Certificate Inaccuracy Payment Date. In the event the Borrower fails to comply with the terms of this Section 5.07(e), the Lenders' sole recourse with respect to such non-compliance shall be limited to the True-Up Amount.

(f) Upon the occurrence of any Sustainability Recalculation Event, upon the written request of the Borrower or the Majority Lenders, the Majority Lenders and the Borrower shall negotiate in good faith to amend the KPI Metric implicated by such Sustainability Recalculation Event; provided that, until such amendment shall become effective, the KPI Metric and KPI Thresholds shall remain in place as unamended.

ARTICLE VI
CONDITIONS PRECEDENT

Section 6.01 Closing Date. The obligations of the Lenders to make the Loans hereunder shall not become effective until the Business Day on which each of the following conditions is satisfied (or waived in accordance with Section 12.02):

(a) Credit Agreement. The Administrative Agent shall have received from each party hereto, counterparts (in such number as may be requested by the Administrative Agent) of this Agreement signed on behalf of such other party and (ii) for the account of each Lender requesting a Note, a duly executed Note payable to such Lender in a principal amount equal to its Commitments as of the Closing Date.

(b) Loan Documents.

(i) Security Documents. Subject to the post-closing periods set forth on Schedule 8.17, the Administrative Agent shall have received from each party thereto, duly executed counterparts (in such number as may be requested by the Administrative Agent) of the Security Documents, in proper form for filing, registration or recordation, as applicable, including: (A) Mortgages that create (or will upon recording create) first-priority, perfected Liens with respect to the applicable Loan Party's Real Property Rights in the Boron Plant and the Pickens Plant (subject only to Permitted Liens), duly executed and acknowledged by each Loan Party that is the owner of or holder of any interest therein, and otherwise in form for recording in the recording office of each applicable political subdivision where each of the Boron Plant and the Pickens Plant is situated, together with such certificates, affidavits, questionnaires or returns as shall be required in connection with the recording or filing thereof to create a lien under applicable Governmental Requirements, (B) the Guarantee and Collateral Agreement, (C) the Canadian Security Documents, (D) the Perfection Certificate, (E) the Patent, Trademark and Copyright Security Agreements and (F) the other Security Documents referred to in this Section 6.01(b).

(ii) Filings, Registrations and Recordings. Each Security Document and any other document (including any UCC financing statement (including any fixture financing statements) and any Patent, Trademark and Copyright Security Agreements) required by any Security Document or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid and perfected, first priority Lien on the Collateral described therein, subject to Permitted Liens, shall be in proper form for filing, registration or recordation and all recordation and filing fees and mortgage taxes have been paid (or arrangement for the payment of the same shall have been made by the Borrower) in connection with those filings.

(iii) Real Property. The Administrative Agent shall have received (A) reasonably satisfactory title information for the Real Property Rights comprising the Boron Plant and the Pickens Plant, (B) copies of all Real Property Rights, including leases and subleases, including copies of all recorded leases, subleases and memoranda of lease or sublease to which any Loan Party is a party and all other agreements, in each case, relating to possessory interests in any Real Property Rights, (C) "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to the Boron Plant and Pickens Plant and (D) in the event any such property is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area, (x) a notice about special flood hazard area status and flood disaster assistance, duly executed by the Borrower or applicable Loan Party, (y) evidence of flood insurance as required by this Agreement.

(c) Existing Indebtedness; Liens. Substantially simultaneously with the Closing Date, (i) all funded Indebtedness of the Loan Parties and their Subsidiaries (including, for the avoidance of doubt, the Existing NG Advantage Debt, Existing Plains Debt and Existing SG Debt) shall have been repaid, redeemed, cancelled or otherwise satisfied in full and (ii) all Liens securing any such Indebtedness shall have been released or terminated pursuant to documentation in form and substance satisfactory to the Administrative Agent, subject only to the filing of applicable terminations, releases or assignments.

(d) Fees. The Agents, the Lead Arranger and the Lenders shall have received all fees and amounts, including under the Fee Letter, due and payable on or prior to the Closing Date, and to the extent invoiced in reasonable detail at least two (2) Business Days prior to the Closing Date, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder (including, without limitation, the taxes, costs and expenses for recordation of certain Security Documents and the reasonable and documented fees and expenses of Simpson Thacher & Bartlett LLP, counsel to the Administrative Agent, pursuant to Section 12.03(a)).

(e) Organizational Documents; Incumbency. The Administrative Agent shall have received a certificate of a Responsible Officer of each Loan Party setting forth (i) resolutions of its members, board of directors, board of managers or other governing body, as applicable, with respect to the authorization of such Loan Party to execute and deliver the Loan Documents to which it is a party and to enter into the transactions contemplated in those documents, (ii) the officers of such Loan Party (A) who are authorized to sign the Loan Documents to which such Loan Party is a party and (B) who will, until replaced by another officer or officers duly authorized for that purpose, act as its representative for the purposes of signing documents and giving notices and other communications in connection with this Agreement and the transactions contemplated hereby, (iii) specimen signatures of such authorized individuals, and (iv) the Organizational Documents of such Loan Party certified by the appropriate state official where such documents are filed in a state office, and certified by the applicable Loan Party as being true and complete. The Administrative Agent and the Lenders may conclusively rely on such certificate until the Administrative Agent receives notice in writing from such Loan Party to the contrary.

(f) Corporate Status; Good Standing. The Administrative Agent shall have received certificates of the appropriate state or other applicable agencies with respect to the existence, good standing and qualification to do business (including any foreign qualification) of each Loan Party in each jurisdiction where such Loan Party is organized and where its ownership, lease or operation of Property or the conduct of its business requires such qualification (to the extent such concept is applicable in the relevant jurisdiction).

(g) Legal Opinions. The Administrative Agent shall have received (i) an opinion of O'Melveny & Meyers LLP, counsel to the Loan Parties, (ii) an opinion of DLA Piper (Canada) LLP, counsel to CEFS, (iii) customary legal opinions regarding the Mortgages on the Boron Plant and the Pickens Plant in each jurisdiction where such Mortgaged Property is located and (iv) a second-party opinion from Fitch regarding the alignment of this Agreement with the core components of the Sustainability-Linked Loan Principles, in each case, addressed to the Administrative Agent and the Lenders and in form and substance reasonably satisfactory to the Administrative Agent.

(h) Solvency Certificate. The Administrative Agent shall have received a Solvency Certificate duly executed by a Financial Officer of Parent, dated as of the Closing Date, certifying that the Loan Parties and their Subsidiaries, on a consolidated basis, after giving effect to the Transactions, including the Borrowing of the Loans, on the Closing Date, are Solvent.

(i) Insurance Certificates. The Administrative Agent shall have received certificates of insurance coverage of the Loan Parties in form and substance reasonably satisfactory to the Administrative Agent evidencing that the applicable Loan Parties are carrying insurance in accordance with Section 8.07 and naming the Collateral Agent as lender's loss payee with respect to property insurance, and the Agents and the Lenders as additional insured with respect to liability insurance.

(j) Lien Searches. The Administrative Agent shall have received recent appropriate UCC lien, tax lien, Intellectual Property, judgment and litigation search reports for the Loan Parties reflecting no prior Liens (other than those being assigned or released on or prior to the Closing Date) or judgments encumbering the Properties of the Loan Parties and all lien terminations, UCC-3 termination statements, Intellectual Property terminations and releases, and other documentation evidencing such assignments or releases.

(k) Consent Agreement. The Administrative Agent shall have received a duly executed consent agreement with respect to the bp JV Agreement and the bp Marketing Agreement in form and substance reasonably satisfactory to the Administrative Agent, to permit the granting of Liens on the Equity Interests of the bp JV in favor of the Collateral Agent, and the enforcement of such Liens by the Collateral Agent (including a transfer and/or other disposition of such Equity Interests upon foreclosure of such Liens) pursuant to the Security Documents, free of any restrictions or other limitations otherwise contained in the bp JV Agreement and/or the bp Marketing Agreement.

(l) Financial Information. The Administrative Agent shall have received:

(i) the financial information referred to in Section 7.04(a), which shall reflect no Indebtedness for borrowed money other than Indebtedness permitted pursuant to Section 9.02; and

(ii) the Annual Budget for the fiscal year of Parent ending December 31, 2022 (certified by a Responsible Officer as having been prepared in good faith based on information that the Borrower believes to be reasonable and its best estimate of the information set forth therein as of the Closing Date), in form and substance reasonably satisfactory to the Administrative Agent.

(m) Patriot Act. The Administrative Agent, the Lenders and the Lead Arranger shall have received (and be reasonably satisfied in form and substance with) (i) at least three (3) Business Days prior to the Closing Date, all documentation, including a duly executed W-9 tax form (or such other applicable IRS tax form) of the Loan Parties, and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including but not restricted to the USA PATRIOT Act, in each case, to the extent requested at least ten (10) days prior to the Closing Date and (ii) at least five (5) Business Days prior to the Closing Date, to the extent any Loan Party qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to such Loan Party.

(n) Officer's Certificate. The Administrative Agent shall have received a certificate of a Responsible Officer, dated the Closing Date and in form and substance reasonably satisfactory to the Administrative Agent, certifying as to the matters set forth in Section 6.01(c), Section 6.01(o), Section 6.01(r), Section 6.01(s), Section 6.01(u), Section 6.01(v), Section 6.01(w) and Section 6.01(x).

(o) Material Contracts.

(i) The Administrative Agent shall have received certified executed versions of each Material Contract in effect as of the Closing Date and any existing supplements or amendments thereto.

(ii) (A) No Loan Party, Material Subsidiary nor any Material Joint Venture or other Subsidiary of any Loan Party shall be in default in the performance, observance or fulfillment of any of its material obligations, covenants or conditions contained in any of the Material Contracts and, to the knowledge of the Loan Parties, no counterparty to a Material Contract is in material default in the performance, observance or fulfillment of any of its material obligations, covenants or conditions contained in the applicable Material Contracts, (B) each Material Contract is in full force and effect and all conditions precedent to effectiveness thereto shall have been satisfied or waived (other than any conditions precedent which by their terms cannot be (and are not required to be) met until a later date, and no Loan Party has any reason to believe that any such conditions precedent cannot be satisfied prior to the times such conditions are required to be met pursuant to the terms of the applicable Material Contract) and (C) except as set forth on Schedule 9.13, no Material Contract directly or indirectly restricts or purports to restrict the ability of the Loan Parties to grant Liens to the Agents and the Lenders on or in respect of such Material Contract or the Loan Parties' direct or indirect rights thereunder in order to secure the Secured Obligations and the Loan Documents, or the ability of the Collateral Agent (on behalf of the Secured Parties) to enforce such Liens in accordance with the terms of the Loan Documents.

(p) Capitalization. The capitalization structure and equity ownership of the Loan Parties and their Subsidiaries after giving effect to the Transactions on the Closing Date shall be satisfactory to the Administrative Agent in all respects.

(q) Borrowing Request; Funds Flow. With respect to the Borrowing of Loans on the Closing Date, the Administrative Agent shall have received a Borrowing Request in accordance with Section 2.03(a) and an accompanying flow of funds memorandum, in form reasonably satisfactory to the Administrative Agent (the "Funds Flow Memorandum").

(r) Approvals and Permits. All Necessary Permits shall be in full force and effect and held in the name of the applicable Loan Party or its Subsidiaries. The Necessary Permits shall not be subject to any restriction, condition, limitation or other provision that could reasonably be expected to result in the inability of any Loan Party or its Subsidiaries to conduct or maintain its business, operations or Properties in any material respect.

(s) Liquidity. On the Closing Date, after giving effect to the Transactions, Liquidity shall not be less than $10,000,000.

(t) Real Property Rights. With respect to the Boron Plant and the Pickens Plant, the Loan Parties shall have all the Real Property Rights recorded in the public records and required for the development and operation of their businesses on their Properties.

(u) No Default. As of the Closing Date, after giving effect to the Transactions, no Default or Event of Default shall have occurred and be continuing.

(v) Representations and Warranties. On the Closing Date, both before and after giving effect to the Transactions, all representations and warranties of the Borrower and each other Loan Party contained in the Loan Documents shall be true and correct in all material respects (or, to the extent already qualified by materiality, in all respects), except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (or, to the extent already qualified by materiality, in all respects) as of such earlier date).

(w) No Material Adverse Effect. As of the Closing Date, after giving effect to the Transactions, since December 31, 2021, no event, development or circumstance has occurred or shall then exist that has resulted in, or could reasonably be expected to have, a Material Adverse Effect.

(x) No Conflict. The making of the Loans would not conflict with, or cause any Lender to violate or exceed, any applicable Governmental Requirement, and no action, proceeding or litigation is pending or threatened in any court or before any Governmental Authority that involves any Loan Document or that is seeking to enjoin or prevent the making or repayment of any Loan or the consummation of the transactions contemplated by this Agreement or any other Loan Document.

(y) Other Documents. The Agents shall have received such other documents as the Agents or special counsel to the Agents may reasonably request.

The Administrative Agent shall notify the Borrower and the Lenders of the Closing Date, and such notice shall be conclusive and binding. For purposes of determining compliance with the conditions specified in this Section 6.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES

Each of Parent and the Borrower represents and warrants (on its own behalf and on behalf of each other Loan Parties) to the Agents and each of the Lenders as follows:

Section 7.01 Organization; Powers. Each Loan Party and each of its Subsidiaries is (a) a legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has all requisite power and authority and, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party, has all governmental licenses, authorizations, consents and approvals necessary, to own its assets and to carry on its business as now conducted, and (c) is qualified to do business in, and is in good standing in, every jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party.

Section 7.02 Authority; Enforceability. The Transactions are within each Loan Party's corporate, limited partnership, limited liability company or other organizational powers, as applicable, and have been duly authorized by all necessary corporate, limited partnership, limited liability company or other organizational, as applicable, and, if required, shareholder, partner or member action, as applicable (including any action required to be taken by any class of directors of any Loan Party or any other Person, whether interested or disinterested, in order to ensure the due authorization of the Transactions). Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and constitutes a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 7.03 Approvals; No Conflicts. Neither the execution and delivery of this Agreement or the other Loan Documents by any Loan Party, nor the consummation of the transactions herein or therein contemplated or in compliance with the terms and provisions hereof or thereof by any of them (a) except with respect to the TotalEnergies DR JV Agreement as contemplated under Section 8.16, requires any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other third Person (including holders of its Equity Interests or any class of directors or managers, whether interested or disinterested, of any Loan Party or any other Person), nor is any such consent, approval, registration, filing or other action necessary for the validity or enforceability of any Loan Document or the consummation of the transactions contemplated thereby, except such as have been obtained or made and are in full force and effect other than the recording and filing of the Security Documents as required by this Agreement, (b) will violate (i) in any material respect, any applicable law or regulation or (ii) any Organizational Document of any Loan Party or any Subsidiary of any Loan Party or any order of any Governmental Authority, (c) except to the extent of any consent expressly contemplated under Section 8.16, will violate or constitute a default under or result in any breach of any Material Indebtedness or Material Contract binding upon any Loan Party, any Material Joint Venture or any other Subsidiary of any Loan Party or any of their Properties, or give rise to a right thereunder to require any payment to be made by any Loan Party and (d) will result in the creation or imposition of any Lien on any Collateral or any other Property of any Loan Party or any Subsidiary of any Loan Party (other than the Liens created by the Loan Documents).

Section 7.04 Financial Condition; No Material Adverse Change.

(a) Parent has heretofore furnished in writing to the Administrative Agent a pro forma balance sheet and other financial information reflecting the financial position of the Loan Parties as of the Closing Date, after giving effect to the Transactions contemplated to occur on the Closing Date, including the making of the Loans hereunder and the application of the proceeds thereof, certified by a Responsible Officer of Parent as having been prepared in good faith based upon reasonable assumptions. Such financial information presents fairly, in all material respects, the financial position of the Loan Parties as of the Closing Date.

(i) Parent has heretofore furnished in writing to the Administrative Agent the audited balance sheet and related statements of operations, shareholders' equity and cash flows as of the end of and for fiscal year of Parent ending December 31, 2021, all certified by a Responsible Officer of Parent as presenting fairly in all material respects as of the date thereof the financial condition and results of operations of Parent and its Consolidated Subsidiaries, on a consolidated basis, in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes.

(b) Since December 31, 2021, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.

(c) Other than as set forth on Schedule 7.04, no Loan Party nor any Subsidiary of any Loan Party has, on the Closing Date, any Material Indebtedness (including Disqualified Capital Stock) or any contingent liabilities, off-balance sheet liabilities or partnerships, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments.

Section 7.05 Litigation. Except as set forth on Schedule 7.05, as of the Closing Date, there are no actions, suits, investigations or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party, threatened by, against or affecting the Loan Parties or their Subsidiaries or their respective Properties or revenues (a) which individually or in the aggregate could reasonably be expected to result in liability to the Loan Parties or their Subsidiaries exceeding $5,000,000 or (b) that involve any Loan Document or the Transactions. None of the Loan Parties or their Subsidiaries are in violation of any order, writ, injunction or any decree of any Governmental Authority which individually or in the aggregate could reasonably be expected to result in liability to the Loan Parties or their Subsidiaries exceeding $5,000,000.

Section 7.06 Environmental Matters. Except for such matters as set forth on Schedule 7.06, as of the Closing Date:

(a) the Loan Parties and their Subsidiaries and each of their respective Properties and operations thereon are and, except for matters that have been resolved with no material outstanding obligations, have been in compliance with all applicable Environmental Laws in all material respects, and, except for matters that have been resolved with no material outstanding obligations, to the knowledge of the Loan Parties, the Properties of the Loan Parties and their Subsidiaries were operated in compliance with all applicable Environmental Laws in all material respects prior to the acquisition of such Properties by the Loan Parties and their Subsidiaries;

(b) (i) except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, the Loan Parties and their Subsidiaries have obtained all Environmental Permits required for their respective operations and each of their Properties, with all such Environmental Permits being currently in full force and effect, and (ii) no Loan Party nor any Subsidiary of any Loan Party has received any written notice or otherwise has knowledge that any such existing Environmental Permit will be revoked or that any application for any new Environmental Permit or renewal of any existing Environmental Permit will be protested or denied, except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect;

(c) there are no claims, demands, suits, orders, inquiries, investigations, requests for information or proceedings concerning any material violation of, or any material liability or obligation (including as a potentially responsible party) under, any Environmental Law that is pending or, to the knowledge of the Loan Parties, threatened against any Loan Party or any of its Subsidiaries or their respective Properties or as a result of any operations of the Loan Parties and their Subsidiaries and to the knowledge of the Loan Parties, there are no conditions or circumstances that would be reasonably expected to result in the receipt of such claims, demands, suits, orders, inquires, investigations, requests for information or proceedings;

(d) except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, none of the Properties of the Loan Parties or their Subsidiaries contain or have contained any: (i) regulated underground storage tanks; (ii) friable asbestos-containing materials; (iii) landfills or dumps; or (iv) sites on or nominated for the National Priority List promulgated pursuant to CERCLA or any state remedial priority list promulgated or published pursuant to any comparable state law;

(e) (i) except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, there has been no Release or, to the knowledge of any Loan Party, Threatened Release, of Hazardous Materials at, on, under or from any Loan Party's or any of their Subsidiaries' Properties, (ii) there are no investigations, remediations, abatements, removals, or monitorings of Hazardous Materials required under applicable Environmental Laws at such Properties and (iii) to the knowledge of the Loan Parties, no such Properties are adversely affected by any Release or Threatened Release of a Hazardous Material originating or emanating from any other real property;

(f) no Loan Party nor any of its Subsidiaries has received any written notice asserting an alleged material liability or material obligation under any Environmental Laws with respect to the investigation, remediation, abatement, removal, or monitoring of any Hazardous Materials at, under, or Released or threatened to be Released from, any real property offsite of any Loan Party's or any of their Subsidiaries' Properties and, to the knowledge of the Loan Parties, there are no conditions or circumstances that could reasonably be expected to result in the receipt of such written notice;

(g) there has been no exposure of any Person or property to any Hazardous Materials as a result of or in connection with the operations and businesses of any Loan Party's or any of its Subsidiaries' Properties that would reasonably be expected to form the basis for a claim for material damages or compensation against the Loan Parties or their Subsidiaries and, to the knowledge of the Loan Parties, there are no conditions or circumstances that would reasonably be expected to result in the receipt of notice regarding such exposure; and

(h) the Loan Parties and their Subsidiaries have provided to the Lenders complete and correct copies of all current environmental site assessment reports, investigations, and studies addressing potentially material environmental matters (including matters relating to any alleged non-compliance with or liability under Environmental Laws) that are in any Loan Party's or its Subsidiaries' possession or control, including relating to their respective Properties or operations thereon; provided that the foregoing may be withheld or redacted as reasonably necessary to preserve attorney-client privilege.

Section 7.07 Compliance with the Laws and Agreements; No Defaults.

(a) Each of the Loan Parties and their Subsidiaries is in compliance with all Governmental Requirements applicable to it or its Property and all agreements and other instruments binding upon it or its Property, and possesses all licenses, permits, franchises, exemptions, approvals and other governmental authorizations necessary for the ownership of its Property and the conduct of its business, in each case, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party.

(b) None of the Loan Parties nor any of their Subsidiaries is in default, nor has any event or circumstance occurred which, but for the expiration of any applicable grace period or the giving of notice, would constitute a default thereunder, or would require any Loan Party or any Subsidiary of any Loan Party to Redeem or make any offer to Redeem under any indenture, note, credit agreement or instrument governing any Material Indebtedness.

(c) Schedule 7.07 contains a complete list, as of the Closing Date, of each Material Contract of the Loan Parties, the Material Joint Ventures and the other Subsidiaries of the Loan Parties, including all amendments, supplements or other modifications thereto. Each Material Contract is in full force and effect, and is valid, binding and enforceable upon each Loan Party, Material Joint Venture and/or Subsidiary of any Loan Party party thereto and, to the knowledge of the Loan Parties, upon each of the other parties thereto, in accordance with their respective terms. Each Loan Party, each Material Joint Venture and each of their Subsidiaries party thereto is, and, to the knowledge of the Loan Parties, each other party to a Material Contract is, in compliance in all material respects with such agreements. No default, event of default or "force majeure" (or any functionally equivalent term under the applicable Material Contract) event has occurred and is continuing under any Material Contract. The Borrower has delivered or made available to the Administrative Agent true, correct and complete copies of each Material Contract (including any material amendments, supplements or other modifications thereto) not previously delivered or made available to the Administrative Agent.

(d) (i) On the Closing Date, upon completion of and after giving effect to the Transactions contemplated to occur on the Closing Date, no Default or Event of Default has occurred and is continuing and (ii) at any time after the Closing Date, no Default or Event of Default has occurred and is continuing.

Section 7.08 Investment Company Act. No Loan Party is an "investment company" or a company "controlled" by an "investment company," within the meaning of, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 7.09 Taxes. Each Loan Party and its Subsidiaries has timely (taking into account any valid extensions) filed or caused to be filed all income and other material Tax returns required to have been filed by it and has paid or caused to be paid all material Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP. The charges, accruals and reserves on the books of the Loan Parties and their Subsidiaries in respect of Taxes and other governmental charges are, in the reasonable opinion of the Loan Parties, adequate. No Tax Lien has been filed for unpaid Taxes of any Loan Party or any Subsidiary of any Loan Party and, to the knowledge of the Loan Parties, no claim is being asserted with respect to any such material Tax by a Governmental Authority.

Section 7.10 ERISA.

(a) Each Loan Party and its Subsidiaries and each ERISA Affiliate has complied in all material respects with ERISA and, where applicable, the Code regarding each Plan and each Multiemployer Plan.

(b) Except as could not reasonably be expected to have a Material Adverse Effect, each Plan is, and has been, established and maintained in compliance with its terms, ERISA and, where applicable, the Code.

(c) No ERISA Event has occurred or is reasonably expected to occur that could reasonably be expected to have a Material Adverse Effect.

(d) Except as could not reasonably be expected to have a Material Adverse Effect, (i) no act, omission or transaction has occurred in respect of a Plan which could result in imposition on Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate (whether directly or indirectly) of (A) either a civil penalty assessed pursuant to subsections (c), (i), (l) or (m) of section 502 of ERISA or a tax imposed pursuant to Chapter 43 of Subtitle D of the Code or (B) breach of fiduciary duty liability damages under section 409 of ERISA, and (ii) full payment when due has been made of all amounts which Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate is required under the terms of each Plan or applicable law to have paid as contributions to such Plan.

(e) None of Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate sponsors, maintains, or contributes to an employee welfare benefit plan, as defined in section 3(1) of ERISA, including any such plan maintained to provide benefits to former employees of such entities, that may not be terminated by Parent, the Borrower, any of their Subsidiaries or any ERISA Affiliate in its sole discretion at any time without triggering a Material Adverse Effect.

(f) None of Parent, the Borrower or any of their Subsidiaries is an entity deemed to hold "plan assets," within the meaning of 29 C.F.R. § 2510.3-101 (as amended by Section 3(42) of ERISA), of an employee benefit plan (as defined in Section 3(3) of ERISA), which is subject to Title I of ERISA, or of any plan (within the meaning of Section 4975 of the Code), and, assuming the assets used to fund the Loans are also not "plan assets," neither the execution of this Agreement nor the making of Loans hereunder gives rise to a prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code.

Section 7.11 Disclosure; No Material Misstatements. Each of Parent and the Borrower has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or similar restrictions to which such Loan Party or any of its Subsidiaries is subject and all other matters known to it with respect to the Loan Parties and their Subsidiaries, that, in each case, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party or any Subsidiary of any Loan Party to the Administrative Agent or any Lender or any of their Affiliates in connection with the negotiation of this Agreement or any other Loan Document or delivered hereunder or under any other Loan Document (taken as a whole and as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, Parent and the Borrower represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time. There is no fact peculiar to any Loan Party or any Subsidiary of any Loan Party (as opposed to other participants in their industries generally) that has not been disclosed to the Administrative Agent prior to the Closing Date which could reasonably be expected to have a Material Adverse Effect.

Section 7.12 Insurance. Each of Parent and the Borrower has in effect, and has caused its Material Subsidiaries to have in effect, (a) all insurance policies sufficient for the compliance by each of them with all material Governmental Requirements and all material agreements, including all Material Contracts and (b) insurance coverage in at least amounts and against such risk (including public liability) that are usually insured against by companies similarly situated and engaged in the same or a similar business for the assets and operations of the Loan Parties and their Material Subsidiaries. The Agents and the Lenders have been named as additional insureds in respect of all liability insurance policies of the Loan Parties and their Material Subsidiaries, and the Collateral Agent has been named as sole lender's loss payee with respect to Property loss insurance of the Loan Parties and their Material Subsidiaries. Schedule 8.07 lists all insurance policies of the Loan Parties and their Material Subsidiaries as of the Closing Date, all of which are valid and in full force and effect as of the Closing Date. Such policies provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of the Loan Parties and their Material Subsidiaries in accordance with Prudent Industry Practices. None of the Loan Parties nor any of their Material Subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers at a comparable rate. Each Loan Party has taken all actions required under the Flood Laws or reasonably requested by any Lender to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including to the extent applicable, but not limited to, providing the Administrative Agent with the address and/or GPS coordinates of each structure located upon any real property, whether owned, leased or otherwise held, that will be subject to a Mortgage in favor of the Collateral Agent, for the benefit of the Secured Parties, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral.

Section 7.13 Restriction on Liens. Except with respect to the TotalEnergies DR JV Agreement as contemplated under Section 8.16, no Loan Party, Material Joint Venture or, solely in the case of clause (ii) below, Subsidiary of any Loan Party, is a party to any Material Contract, documentation evidencing Material Indebtedness or other material agreement or arrangement (other than (a) Capital Leases and purchase money Indebtedness creating Liens permitted by Section 9.03(c), but only on the Property subject of such Capital Lease or purchase money Indebtedness, (b) documentation in respect of cash collateral granting Liens permitted by Section 9.03(d), Section 9.03(g), or Section 9.03(l), but only on the Property subject of such cash collateral arrangement and (c) grant agreements but solely with respect to Liens on property constructed or acquired with the proceeds of such grant agreement), or is subject to any order, judgment, writ or decree, which either restricts or purports to restrict the ability to grant Liens to the Agents and the Lenders (i) on or in respect of its Properties or (ii) on or in respect of its Equity Interests, in each case, to secure the Secured Obligations and the Loan Documents or the ability of the Collateral Agent (on behalf of the Secured Parties) to enforce such Liens in accordance with the terms of the Loan Documents.

Section 7.14 Officer, Directors and Ownership.

(a) Schedule 7.14 (as supplemented from time to time by the Borrower by written notice to the Administrative Agent) states the name of each Loan Party and its Subsidiaries and joint ventures, their respective jurisdictions of incorporation or formation and foreign qualification, their authorized capital stock (if applicable), any issued and outstanding Equity Interests and the owners thereof (other than with respect to Parent). Each Loan Party and its Material Subsidiaries has good title to all of the Equity Interests it purports to own, free and clear in each case of any Lien, other than non-consensual Liens arising by operation of law and Liens granted pursuant to the Loan Documents and, to the extent constituting Liens, restrictions set forth in the organizational documents governing such Equity Interests. All Equity Interests of each of Parent's Subsidiaries have been validly issued, and all such Equity Interests are fully paid and non-assessable and were offered and issued in compliance with applicable laws. There are no options, warrants or other rights outstanding to purchase any such Equity Interests except as indicated on Schedule 7.14.

(b) Neither Parent nor the Borrower has any direct Subsidiaries that are not wholly-owned Domestic Subsidiaries other than (i) NG Advantage, (ii) CEFS and (iii) Mansfield Clean Energy Partners, LLC.

Section 7.15 Location of Business and Offices.

(a) The Borrower's jurisdiction of organization is California; the name of the Borrower as listed in the public records of its jurisdiction of organization is California; and the organizational identification number of the Borrower in its jurisdiction of organization is 1992496 (or, in each case, as set forth in a notice delivered to the Administrative Agent pursuant to Section 8.01(i) in accordance with Section 12.01). The Borrower's principal place of business and chief executive offices are located at the address specified in Section 12.01 (or as set forth in a notice delivered pursuant to Section 8.01(i) and Section 12.01).

(b) Parent's jurisdiction of organization is Delaware; the name of Parent as listed in the public records of its jurisdiction of organization is Clean Energy Fuels Corp.; and the organizational identification number of Parent in its jurisdiction of organization is 3381709 (or, in each case, as set forth in a notice delivered to the Administrative Agent pursuant to Section 8.01(i) in accordance with Section 12.01). Parent's principal place of business and chief executive offices are located at the address specified in Section 12.01 (or as set forth in a notice delivered pursuant to Section 8.01(i) and Section 12.01).

(c) Each other Guarantor's jurisdiction of organization, name as listed in the public records of its jurisdiction of organization and organizational identification number in its jurisdiction of organization is specified in the Guarantee and Collateral Agreement or the Canadian GSA, as applicable (or as set forth in a notice delivered to the Administrative Agent pursuant to Section 8.01(i) in accordance with Section 12.01), and the location of its principal place of business and chief executive office is at its address set forth in the Guarantee and Collateral Agreement or the Canadian GSA, as applicable (or as set forth in a notice delivered to the Administrative Agent pursuant to Section 8.01(i) in accordance with Section 12.01).

Section 7.16 Properties; Titles, Etc.

(a) Each of the Loan Parties and their Material Subsidiaries has (i) good and defensible title to, or valid leasehold or other interests in, all of their respective real Properties and (ii) good title to all of their respective material personal Properties, in each case, free and clear of all Liens except Permitted Liens, in each case, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party.

(b) All material leases, subleases and agreements necessary for the conduct of the business of the Loan Parties and their Material Subsidiaries are valid and subsisting, in full force and effect, and, to Borrower's knowledge, there exists no default or any event or circumstance which with the giving of notice or the passage of time or both would give rise to a default by any Loan Party or Subsidiary under any such lease or sublease.

(c) The rights and Properties presently owned, leased, subleased or licensed by the Loan Parties and their Material Subsidiaries, including all Real Property Rights, include all rights and Properties necessary to permit the Loan Parties and their Material Subsidiaries to conduct their respective businesses in all material respects in the manner presently conducted.

(d) Each of the Loan Parties and their Subsidiaries has complied with all obligations under the Real Property Rights to which it is a party, and all such Real Property Rights are in full force and effect, in each case, except as would not reasonably be expected to result in a Material Adverse Effect. Each of the Loan Parties and their Subsidiaries enjoys peaceful and undisturbed possession under all such Real Property Rights except for minor disturbances which would not reasonably be expected to, individually or in the aggregate, materially and adversely interfere with or impact the business or operations of any Loan Party or any of its Subsidiaries or materially detract from the value or use of such Real Property Rights.

(e) All of the material Properties of the Loan Parties and their Material Subsidiaries which are reasonably necessary for the operation of their respective businesses are in good working condition (ordinary wear and tear excepted) and are maintained in accordance with prudent business standards in all material respects.

(f) Each of the Loan Parties and their Material Subsidiaries owns or is licensed to use all material Intellectual Property necessary for it to own and operate its Properties and to carry on its business as presently conducted, and each Loan Party's use of such material Intellectual Property and operation of its business does not infringe upon, misappropriate or otherwise violate the rights of any other Person. Each of the Loan Parties and their Material Subsidiaries has used commercially reasonable efforts to protect and maintain its ownership of, and the validity and enforceability of, all material Intellectual Property. No claims or litigations challenging any Loan Party's use or ownership of any material Intellectual Property or the validity or enforceability of any Loan Party's or any of their Material Subsidiaries' material Intellectual Property are pending or, to the knowledge of the Loan Parties, threatened in writing.

(g) Schedule 7.16 sets forth, as of the Closing Date, a complete and correct list of all Real Property Rights with respect to Material Real Property fee owned, leased or licensed by the Loan Parties and their Subsidiaries (and, if applicable, the lessors or grantors thereof).

Section 7.17 Permits.

(a) Each Loan Party and its Material Subsidiaries holds all material permits, licenses, registrations, certificates, approvals, consents, clearances and other authorizations from any Governmental Authority required under any applicable laws for the operation of its business as presently conducted and any permit required to qualify for and continue to qualify for Environmental Credits except to the extent the invalidation, cancellation, surrender, retirement or loss of Environmental Credits would not exceed $5,000,000 (collectively, the "Necessary Permits"). Except as otherwise described in Schedule 7.17 as of the Closing Date, each Necessary Permit is in full force and effect and is not the subject of any current or threatened in writing legal proceeding, and, if an appeal period is specified by a Governmental Requirements with respect to any such legal proceeding, the appeal period has expired.

(b) None of the Loan Parties nor any of their Material Subsidiaries is the subject of a complaint, investigation or other proceeding by any Governmental Authority regarding any Necessary Permit.

Section 7.18 Security Documents.

(a) Guarantee and Collateral Agreements; Control Agreements. The provisions of the Guarantee and Collateral Agreement and the Canadian Security Documents are effective to create, in favor of the Collateral Agent for the benefit of the Secured Parties, a legal, valid and enforceable Lien on, and security interest in, all of the Collateral covered thereby, and (i) when financing statements and other filings in appropriate form are filed in the offices specified in the Guarantee and Collateral Agreement or the Canadian Security Documents, as applicable and/or (ii) upon the taking of possession or control by the Collateral Agent of Equity Interests and other Collateral with respect to which a security interest may be perfected by possession or control required by the Guarantee and Collateral Agreement, the Canadian Security Documents or hereunder, as applicable, the Liens created by the Guarantee and Collateral Agreement and the Canadian Security Documents shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the Loan Parties in the Collateral covered thereby in which a security interest may be perfected by such filing or control, in each case, free of all Liens other than, in the case of Section 7.18(a)(i), Permitted Liens or, in the case of Section 7.18(a)(ii), non-consensual Liens arising by operation of law, and, in each case, prior and superior to all other Liens other than, in the case of Section 7.18(a)(i), Excepted Liens or, in the case of Section 7.18(a)(ii), non-consensual Liens arising by operation of law. The Liens granted to the Collateral Agent for the benefit of the Secured Parties that are perfected pursuant to each of the Control Agreements constitute a valid first-priority Lien under applicable law, subject only to non-consensual Liens arising by operation of law.

(b) Mortgages. Each Mortgage is effective to create, in favor of the Collateral Agent (or such other trustee as may be required or desired under local law) for the benefit of the Secured Parties, legal, valid and enforceable Liens on, and security interests in, all of the Mortgaged Property thereunder and the proceeds thereof, subject only to Permitted Liens, and when the Mortgages are recorded or filed in the offices specified on Schedule 7.18 (or, in the case of any Mortgage executed and delivered after the date thereof in accordance with the provisions of Section 8.12 and/or Section 8.17, as applicable, when such Mortgage is recorded or filed in the appropriate offices), together with any UCC financing statements required to be filed therewith, the Mortgages shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the applicable Loan Parties in the Mortgaged Property and the proceeds thereof, in each case prior and superior in right to any other person, other than Permitted Liens.

(c) Valid Liens. Each Security Document delivered pursuant to Section 8.11 and Section 8.12, upon execution and delivery thereof, is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, legal, valid and enforceable Liens on, and security interests in, all of the Collateral thereunder, and when all appropriate filings or recordings are made in the appropriate offices as may be required under applicable Governmental Requirements, such Security Documents will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Loan Parties in such Collateral in which a security interest may be perfected by such filings or recordings, in each case with no other Liens except for applicable Excepted Liens and other Permitted Liens and in each case prior and superior in right to any other person, other than Liens permitted by such Mortgage and Excepted Liens.

Section 7.19 Hedging Agreements. Schedule 7.19 sets forth, as of the Closing Date, a true and complete list of all Hedging Agreements of the Loan Parties and the counterparty to each such agreement.

Section 7.20 Use of Proceeds. The proceeds of the Loans shall be used solely (i) to repay the Existing SG Debt, the Existing Plains Debt, the Existing NG Advantage Debt, and to cash collateralize any replacement letters of credit in connection therewith, (ii) to repay all other Indebtedness of the Loan Parties and their Subsidiaries not permitted under this Agreement on the Closing Date, (iii) to finance Permitted Investments from time to time, (iv) to pay Transaction Costs and (v) for other general corporate purposes. Neither Parent nor the Borrower nor any other Loan Party is engaged principally, or as one of its or their important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying margin stock (within the meaning of Regulation T, Regulation U or Regulation X). No part of the proceeds of any Loan will be used by Parent, the Borrower or any of their Subsidiaries for any purpose which violates the provisions of Regulation T, Regulation U or Regulation X.

Section 7.21 Solvency. After giving effect to the Transactions, the Loan Parties and their Subsidiaries, on a consolidated basis, are Solvent.

Section 7.22 USA PATRIOT; AML Laws; Anti-Corruption Laws and Sanctions. Each of Parent and the Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by Parent, the Borrower, their Subsidiaries and their respective directors, officers, employees and agents with the USA PATRIOT Act, Anti-Corruption Laws, applicable AML Laws and applicable Sanctions. None of (a) Parent, the Borrower, any of their Subsidiaries or any of their respective directors or officers, or, to the knowledge of Parent or the Borrower, any of their respective employees or Affiliates, or (b) to the knowledge of Parent or the Borrower, any agent of Parent or the Borrower or any of their Subsidiaries or other Affiliate that will act in any capacity in connection with or benefit from the credit facility established hereby, (i) is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in Parent, the Borrower or any of their Subsidiaries being designated a Sanctioned Person, or (ii) is in violation of AML Laws, Anti-Corruption Laws, or Sanctions. No Borrowing, use of proceeds or other transaction contemplated by this Agreement will cause a violation of AML Laws, Anti-Corruption Laws or applicable Sanctions by any Person participating in the transactions contemplated by this Agreement, whether as lender, borrower, guarantor, agent, or otherwise. Neither Parent nor the Borrower nor, to the knowledge of Parent or the Borrower, any other Affiliate of Parent or the Borrower, has engaged in or intends to engage in any dealings or transactions with, or for the benefit of, any Sanctioned Person or with or in any Sanctioned Country.

Section 7.23 Accounts. Schedule 7.23 lists all Deposit Accounts, Securities Accounts and Commodity Accounts maintained by or for the benefit of any Loan Party as of the Closing Date. No Loan Party has any Deposit Accounts, Securities Accounts or Commodity Accounts other than the accounts set forth on Schedule 7.23 (as amended or supplemented from time to time in accordance with this Agreement) or as permitted under Section 8.14.

Section 7.24 Labor Matters. All Labor Contracts between any of the Loan Parties or their Subsidiaries, on the one hand, and any of their officers, on the other hand, and any Labor Contracts that are collective bargaining agreements, in each case, as of the Closing Date are set forth on Schedule 7.24 (as amended or supplemented from time to time by the Borrower by written notice to the Administrative Agent). Each of the Loan Parties and their Subsidiaries is in compliance with the Labor Contracts and all applicable federal, state and local labor and employment Laws including those related to equal employment opportunity and affirmative action, labor relations, minimum wage, overtime, child labor, medical insurance continuation, worker adjustment and relocation notices, immigration controls and worker and unemployment compensation, except where the failure to comply, individually or in the aggregate, could not reasonably be expected to result in liability exceeding $10,000,000. There are no outstanding grievances, arbitration awards or appeals therefrom arising out of the Labor Contracts or current or threatened strikes, picketing, handbilling or other work stoppages or slowdowns at facilities of any of the Loan Parties or any of their Subsidiaries which in any case, individually or in the aggregate, could reasonably be expected to result in liability exceeding $10,000,000.

Section 7.25 Affected Financial Institutions. No Loan Party is an Affected Financial Institution.

Section 7.26 Beneficial Ownership Certification. The information included in the Beneficial Ownership Certification is true and correct in all material respects.

Section 7.27 Zero Balance Agreements. There is no Indebtedness outstanding under any Zero Balance Agreement.

ARTICLE VIII
AFFIRMATIVE COVENANTS

Until Payment in Full, each of Parent and the Borrower covenants and agrees with the Agents and the Lenders that:

Section 8.01 Financial Statements; Other Information. Parent will furnish to the Administrative Agent and each Lender:

(a) Annual Financial Statements. As soon as available, but in any event in accordance with applicable law and not later than ninety (90) days after the end of each fiscal year of Parent, the audited consolidated balance sheet and related consolidated statements of operations, shareholders' equity and cash flows of Parent and its Consolidated Subsidiaries as of the end of and for such year, setting forth in each case, in comparative form the figures for the previous fiscal year of Parent, all reported on by independent public accountants of recognized national standing reasonably acceptable to the Administrative Agent (without a "going concern" or like qualification or exception and without any qualification, exception or explanatory paragraph as to the scope of such audit or with respect to internal controls over financial reporting including with respect to Environmental Credits) to the effect that such financial statements present fairly in all material respects the financial condition and results of operations of Parent and its Consolidated Subsidiaries, on a consolidated basis, in accordance with GAAP consistently applied.

(b) Quarterly Financial Statements. As soon as available, but in any event in accordance with then applicable law and not later than forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of Parent, commencing with the fiscal quarter ending March 31, 2023, the unaudited consolidated balance sheet and related consolidated statements of operations, shareholders' equity and cash flows of Parent and its Consolidated Subsidiaries as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case, in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year of Parent, all certified by a Responsible Officer as presenting fairly in all material respects the financial condition and results of operations of Parent and its Consolidated Subsidiaries, on a consolidated basis, in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes.

(c) Compliance Certificates. Concurrently with any delivery of financial statements under Section 8.01(a) or Section 8.01(b), a certificate of a Responsible Officer of Parent in substantially the form of Exhibit E hereto (i) certifying as to whether a Default or Event of Default has occurred and, if a Default or Event of Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with the Financial Covenants, substantially in the form of Annex A to Exhibit E, (iii) stating whether any change in GAAP or in the application thereof has occurred since the Closing Date, and if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate, (iv) in connection with the delivery of financial statements under Section 8.01(a), setting forth the calculations required by Section 3.04(b)(v) for such fiscal year, substantially in the form of Annex B to Exhibit E, (v) setting forth (A) a current list of Material Joint Ventures and Material Contracts as of such date, including a list of each Material Contract entered into or otherwise acquired, terminated, replaced or materially amended by any Loan Party, any Subsidiary of any Loan Party, any Material Joint Venture or any Subsidiary of any Material Joint Venture and each contract that has qualified (or ceased to qualify) as a Material Contract under clause (g) of the definition thereof, in each case, since the date of the most recent report delivered to this Section 8.01(c) and (B) a current list of projects in operation or under construction by or on behalf of any Loan Party, Subsidiary of any Loan Party, other Material Joint Venture or Subsidiary of any Material Joint Venture, (vi) detailing the current status with respect to the Mortgages over and other items with respect to Material Real Property required to be delivered pursuant to Section 8.12(b) or Section 8.17, including (A) a list of the station sites and related landlords that have been contacted, (B) copies or summaries of the most recent communications and responses from such landlords, (C) the anticipated timing of completion of the Mortgage and related deliverables with respect to such Material Real Property (it being acknowledged that such projected timing may change) and (D) any other information as the Administrative Agent may reasonably request and (vii) setting forth (A) a description of any change in the jurisdiction of organization of any Loan Party, the sale of any Equity Interests in any Loan Party, Subsidiary of any Loan Party or other Material Joint Venture, the acquisition or formation of any new Subsidiary by a Loan Party or Material Joint Venture or the acquisition or formation of any new joint venture in which a Loan Party, Subsidiary of any Loan Party, other Material Joint Venture or Subsidiary of any Joint Venture holds Equity Interests and (B) any change in Key Employees, in each case, since the date of the most recent report delivered pursuant to this Section 8.01(c) (or, in the case of the first such report so delivered, since the Closing Date).

(d) Certificate of Insurer — Insurance Coverage. Concurrently with any delivery of financial statements under Section 8.01(a), a certificate of a Responsible Officer, certifying that (i) the insurance requirements of Section 8.07 have been implemented and are being complied with, (ii) the Loan Parties have paid or caused to be paid all insurance premiums then due and payable and (iii) the Loan Parties are in compliance with the insurance policies, and attaching a certificates of insurance required pursuant to Section 8.07, and, if requested by the Administrative Agent or any Lender, copies of the applicable policies and endorsements.

(e) Other Reports. Promptly upon receipt thereof, a copy of each report or letter (except standard and customary correspondence) submitted to Parent, the Borrower or any of their respective Subsidiaries by (i) independent accountants in connection with any annual, interim or special audit made by them of the books of Parent, the Borrower or any such Subsidiary and (ii) third-party auditors with respect to Environmental Credits of the Loan Parties and their Subsidiaries in connection with any annual, interim or special audit made by them (without a qualification or exception and without any qualification, exception or explanatory paragraph as to the scope of such audit), and, in each case, a copy of any response by, or on behalf of, Parent, the Borrower or any such Subsidiary to such letter or report.

(f) Joint Venture Reports. Concurrently with any delivery of financial statements under Section 8.01(a) and Section 8.01(b), copies of (i) any and all reports, financial data and other information delivered or received by or on behalf of any Material Joint Venture by or to any Loan Party or any Subsidiary of any Loan Party in its capacity as member of such Material Joint Venture or otherwise and (ii) any and all information and materials delivered to or received by or on behalf of any Material Joint Venture from or to the third party auditors of such Material Joint Venture.

(g) Permitted Additional TotalEnergies JVs. Promptly, but in any event no later than ten (10) Business Days (or such shorter period as the Administrative Agent may agree) prior to investing in any potential project pursuant to the TotalEnergies JV Agreement, Organizational Document of any Material Joint Venture or other Material Contract, copies of, where available and subject to applicable confidentiality obligations, the initial letter of intent, joint development agreement and/or similar agreement with respect to such potential project together with the Investment File (as such term is defined in the TotalEnergies JV Agreement as of the date of this Agreement) or similar documents utilized to make an investment decision with respect to such project and any additional information and documents furnished or received in connection therewith (including copies of the limited liability company agreement and other documents governing such joint venture).

(h) SEC Correspondence. Promptly after receipt thereof by any Loan Parties, copies of each material (i.e., not standard or customary correspondence) notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) resulting in an investigation by such agency regarding financial or other operational results of such Loan Party.

(i) Information Regarding Loan Parties. Prompt written notice (and in any event at least ten (10) Business Days prior thereto, or such shorter time as the Administrative Agent may agree in its sole discretion) of any change (i) in any Loan Party's corporate, limited liability company or limited partnership name, (ii) in the location of any Loan Party's chief executive office or principal place of business, (iii) in any Loan Party's entity type or jurisdiction in which such Person is incorporated or formed, or in any Subsidiary's ownership, (iv) in any Loan Party's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (v) in any Loan Party's United States federal taxpayer identification number.

(j) Notices of Certain Changes. Promptly but in any event within ten (10) Business Days prior to the execution thereof, copies of any material amendment, modification or supplement to, or assignment of, (i) any Material Contract, (ii) any agreement governing Material Indebtedness or (iii) or the certificate or articles of incorporation, by-laws, any preferred stock designation, any shareholders agreement or any other Organizational Document of any Loan Party or any of its Material Subsidiaries or of any Material Joint Venture.

(k) Environmental Credits. Promptly upon receipt or delivery but in any event within ten (10) Business Days thereof, copies of any material (i.e., not standard or customary correspondence) correspondence from or to any regulatory body responsible for administering and enforcing any program that governs the RINs, LCFS or any other Environmental Credits.

(l) Annual Budget. Concurrently with the delivery of financial statements under Section 8.01(a), an Annual Budget for the then current fiscal year of Parent, which Annual Budget shall (i) be prepared on a substantially similar basis to the Annual Budget delivered pursuant to Section 6.01(l)(ii), (ii) present the Borrower's plan for the relevant period's ongoing operations, including, among other things, the Borrower's good faith estimate of projected revenues, operation and maintenance expenses, Capital Expenditures, major maintenance expenditures of Parent, the Borrower and their Subsidiaries and other capital requirements and permitting requirements and (iii) include such additional information as the Lenders may from time to time reasonably request.

(m) Patriot Act. Promptly upon request, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.

(n) Other Requested Information. Promptly following any request therefor, such other information and/or meetings regarding (i) the operations, business affairs, prospects and financial condition of Parent and its Subsidiaries (including with respect to beneficial ownership of Parent and its parent companies), (ii) the terms of this Agreement or any other Loan Document or Material Contract, including compliance with the terms thereof or (iii) any Collateral, in each case, as the Administrative Agent may reasonably request.

(o) Monthly Lender Calls. Parent and the Borrower will participate in a telephonic meeting with the Administrative Agent and the Lenders once during each calendar month to be held at such times as may be agreed to by Parent, the Borrower and the Administrative Agent, which telephonic meetings may include discussions regarding Material Contracts.

(p) Pro Forma Compliance Certifications. At the request of the Administrative Agent, concurrently with any determination of pro forma compliance with any Financial Covenant, Parent shall deliver to the Administrative Agent, a certificate of a Financial Officer setting forth reasonably detailed calculations demonstrating such compliance.

(q) Notice of Changes to Beneficial Ownership Certification. At the time of the delivery of the financial statements provided for in Section 8.01(b), if any Loan Party qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, written notice of any change in the information provided in the Beneficial Ownership Certification delivered to the Administrative Agent or any Lender that would result in a change in the list of beneficial owners identified in such certification.

(r) Sustainability Reports. As soon as available and in any event within ninety (90) days following the end of the fiscal year ending December 31, 2025, the Borrower shall deliver, or cause to be delivered, to the Administrative Agent a Sustainability Certificate for the fiscal year ended December 31, 2025; provided that, for such fiscal year, the Borrower may elect not to deliver a Sustainability Certificate, and such election shall not constitute a Default or Event of Default (but such failure to so deliver a Sustainability Certificate by the end of such ninety (90) day period shall result in the Sustainability Rate Adjustment being applied as set forth in Section 5.07(c)).

(s) Sustainability Certificate Inaccuracies. Promptly after knowledge of a Responsible Officer thereof, written notice of a Sustainability Certificate Inaccuracy.

Documents required to be delivered pursuant to this Section 8.01 (to the extent non-redacted copies of any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which (i) either the Borrower posts such documents, or such documents are posted on the Borrower's behalf, on the internet or a dataroom or a substantially similar transmission system, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent), and (ii) the Borrower notifies (which may be by e-mail) the Administrative Agent and each Lender of the posting of any such documents; provided that the Borrower shall deliver paper copies or soft copies (by e-mail) of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies or soft copies. Information required to be delivered pursuant to this Section 8.01 may also be delivered by e-mail pursuant to procedures approved by the Administrative Agent.

Section 8.02 Notices of Material Events. Except as otherwise provided below, within ten (10) Business Days of any Loan Party gaining knowledge thereof, the Borrower will furnish to the Administrative Agent and each Lender written notice of the following:

(a) the occurrence of (i) any Default or Event of Default and (ii) any default by any counterparty with respect to any material provision of any of any Material Contract, in each case, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the occurrence of any Casualty Event or the commencement of any action or proceeding that could reasonably be expected to result in a Casualty Event, in each case, with a fair market value in excess of $10,000,000;

(c) the filing or commencement of, or the threat in writing of, any action, suit, proceeding, investigation or arbitration by or before any arbitrator or Governmental Authority against or affecting any Loan Party or any Material Subsidiary not previously disclosed in writing to the Lenders or any entry of judgment in any action, suit, proceeding, investigation or arbitration (whether or not previously disclosed to the Lenders) that, in either case, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(d) any litigation or proceeding affecting any counterparty to a Material Contract or involving any Intellectual Property of the Loan Parties, which if adversely determined could reasonably be expected to (i) result in potential liability of $5,000,000 or more or (ii) have a Material Adverse Effect;

(e) (i) any event or condition that constitutes a material default or event of default or a termination event under any Material Contract (other than a termination in accordance with its terms and not as a result of a default) or agreement in respect of any Material Indebtedness, (ii) any notice of termination (other than a termination in accordance with its terms and not as a result of a default) or notice of material default, including any material non-payment, received or given, under, or in connection with, any Material Contract or agreement in respect of any Material Indebtedness, or any other material and adverse notice under, or in connection with, any Material Contract or agreement in respect of Material Indebtedness and (iii) any termination (other than a termination in accordance with its terms and not as a result of a default) or, to the extent material and adverse to the rights of the Lenders, material amendment or modification of, or waiver or consent under, or assignment of, any Material Contract or agreement in respect of any Material Indebtedness, and, in each case, copies of all documentation and other information provided to any Loan Party or any Subsidiary of any Loan Party with respect to such termination, amendment, modification, waiver, consent or assignment;

(f) of the occurrence of any event for which the Borrower is required to make a mandatory prepayment pursuant to Section 3.04(b);

(g) (i) any revocation, denial, material modification or non-renewal of any Necessary Permit or other material Governmental Approval, which revocation, denial, material modification or non-renewal could reasonably be expected to materially and adversely affect the business or operations of any Loan Party and (ii) any dispute between any Loan Party and any Governmental Authority involving the denial, material modification or non-renewal or the like of any Necessary Permit or other material Governmental Approval or the imposition of additional material conditions with respect thereto, which could reasonably be expected to materially and adversely affect the business or operations of any Loan Party;

(h) any default by any party with respect to any Real Property Rights of the Loan Parties with respect to any Material Real Property that could reasonably be expected to materially and adversely affect the business or operations of any Loan Party;

(i) (i) any claim or any notice of potential liability of any Loan Party under any Environmental Laws, in each case, that might reasonably be expected to exceed $10,000,000 or (ii) any other claim asserted against any Loan Party or its Properties that could reasonably be expected to result in a Material Adverse Effect;

(j) any early cancellation of any insurance required to be maintained pursuant to Section 8.07 (except in connection with the concurrent replacement thereof with insurance for which the requirements of Section 8.07 are satisfied); and

(k) any other development or circumstance that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section 8.02 shall be accompanied by a statement of a Responsible Officer setting forth the details of the event or development requiring such notice in reasonable detail and any action taken or proposed to be taken with respect thereto.

Section 8.03 Existence; Conduct of Business. Each of Parent and the Borrower will, and will cause each of its Material Subsidiaries and each Material Joint Venture to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect (a) its legal existence and (b) the rights, licenses, permits, privileges and franchises material to the conduct of its business and maintain, if necessary, its qualification to do business in each other jurisdiction in which its Properties are located or the ownership of its Properties or operation of its business requires such qualification (except to the extent such failure to so qualify could not reasonably be expected to have a Material Adverse Effect).

Section 8.04 Payment of Obligations. Each of Parent and the Borrower will, and will cause each of its Material Subsidiaries to, (a) timely file all income and other material Tax returns (taking into account any extensions), (b) timely pay all material Taxes, assessments, and other governmental charges or levies imposed upon its income, profits or property before the same become delinquent (taking into account applicable extensions) and (c) maintain appropriate accruals and reserves for all of the foregoing in accordance with GAAP. Each Loan may, however, delay paying or discharging any of the foregoing so long as it is in good faith contesting the validity thereof by appropriate proceedings and has set aside on its books adequate reserves therefor that are required by GAAP.

Section 8.05 Material Contracts; Material Indebtedness. Each of Parent and the Borrower will, and will cause each of its Material Subsidiaries and each Material Joint Venture to, (a) perform and observe all of its material covenants and material obligations contained in each of the Material Contracts and each agreement in respect of any Material Indebtedness, (b) take all commercially reasonable action within its control to prevent the termination or cancellation of any Material Contracts to which it is a party in accordance with the terms of such Material Contracts or otherwise (except for the expiration of any Material Contract in accordance with its terms and not as a result of a breach or default thereunder) and (c) use commercially reasonable efforts to enforce against the relevant counterparty each material covenant or obligation of such Material Contract, as applicable, to which it is a party in accordance with its terms.

Section 8.06 Maintenance of Properties.

(a) Each of Parent and the Borrower will, and will cause each of its Material Subsidiaries to, keep and maintain all Property material to the conduct of its business, including all Mortgaged Property in good working order and condition, ordinary wear and tear, casualty, and condemnation excepted, and preserve, maintain and keep in good repair, working order and efficiency (ordinary wear and tear, casualty, and condemnation excepted) all of its material Properties in all material respects, including, without limitation, all material equipment, machinery and facilities, unless such Properties are sold, assigned, transferred or otherwise Disposed of in a Disposition permitted by Section 9.10, in each case, except as could not reasonably be expected to materially and adversely affect the business or operations of any Loan Party.

(b) Without limiting the generality of the foregoing in this Section 8.06, each of Parent and the Borrower will, and will cause each of its Material Subsidiaries to (i) maintain in full force and effect all Intellectual Property, licenses and franchises necessary for the ownership and operation of its Properties and business and (ii) cause each biogas resources, renewable natural gas and/or natural gas project of the Loan Parties and their Material Subsidiaries to obtain all requirements necessary to qualify for and continue to qualify for Environmental Credits, including registration with the EPA and relevant state regulatory agencies and qualifying the Environmental Credits through the Quality Assurance Plan, in each case, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party.

Section 8.07 Insurance. Subject to the post-closing periods set forth on Schedule 8.17, each of Parent and the Borrower will, and will cause each of its Subsidiaries to, maintain, with financially sound and reputable insurance companies, insurance (including fire, extended coverage, property damage, workers' compensation, comprehensive general liability and auto liability) in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses in accordance with prudent business practice and sufficient for the compliance by each of them with all material Governmental Requirements and all material agreements, including all Material Contracts. Schedule 8.07 lists all insurance policies of the Loan Parties maintained pursuant to this Section 8.07 as of the Closing Date. The lender loss payable clauses or provisions in said insurance policy or policies insuring any of the Collateral shall be endorsed in favor of and made payable to the Collateral Agent as "lender's loss payee" or other formulation reasonably acceptable to the Administrative Agent and such policies shall name the Agents and the Lenders as "additional insureds" and provide that the insurer will endeavor to give at least thirty (30) days' prior notice of any cancellation to the Administrative Agent (or at least ten (10) days in the case of nonpayment of premium). Each of Parent and the Borrower shall, and shall cause the other Loan Parties to, deliver to the Administrative Agent (x) on the Closing Date and annually thereafter (as required pursuant to Section 8.01(d)) an original certificate of insurance of a Responsible Officer of the Loan Parties describing and certifying as to the existence of the insurance on the Collateral required to be maintained by this Agreement and the other Loan Documents, together with a copy of the endorsement described in the immediately preceding sentence attached to such certificate and (y) at the request of the Administrative Agent, from time to time a summary schedule indicating all insurance then in force with respect to each of the Loan Parties.

Section 8.08 Books and Records; Inspection Rights. Each of Parent and the Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which materially full, true and correct entries in conformity with GAAP with a reconciliation to GAAP are made of all dealings and transactions in relation to its business and activities. Each of Parent and the Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, at the Borrower's expense and upon reasonable prior notice, to visit and inspect their Properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested; provided, however, that none of Parent, Borrower nor any other Loan Party shall have any obligation to reimburse the Administrative Agent or any Lender for the expenses associated with more than one such visit, inspections, or examination per year absent an Event of Default that has occurred and is continuing.

Section 8.09 Compliance with Laws. Each of Parent and the Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its Properties in each case, except (other than with respect to Anti-Corruption Laws, applicable AML Laws and applicable Sanctions) as would not reasonably be expected to have a Material Adverse Effect. Each of Parent and the Borrower will, and will cause each of its Subsidiaries to, maintain in effect and enforce policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, applicable AML Laws and applicable Sanctions. Without limiting the generality of the foregoing, each of Parent and the Borrower will, and will cause each of its Subsidiaries to, obtain all Necessary Permits as promptly as possible, have when required all Necessary Permits necessary for the development, construction, ownership, leasing, maintenance and operation of its and the other Loan Parties' Properties under applicable Governmental Requirements and comply in all material respects with all Necessary Permits, in each case, except as would not reasonably be expected to materially and adversely affect the business or operations of any Loan Party. The Borrower will, promptly upon request of the Administrative Agent, furnish (or cause to be furnished) a copy (certified by a Responsible Officer of the applicable Loan Party) of each such Necessary Permit to the Administrative Agent and each amendment, supplement or modification to any such Necessary Permit.

Section 8.10 Environmental Matters.

(a) Each of Parent and the Borrower will, at its sole expense: (i) comply, and will cause its and its Material Subsidiaries' Properties and operations to comply, with all applicable Environmental Laws in all material respects; (ii) not, and not permit any of its Material Subsidiaries to, Release or threaten to Release any Hazardous Material on, under, about or from any of Parent's, the Borrower's or its Material Subsidiaries' Properties or any other property offsite the Property to the extent caused by Parent's, the Borrower's or its Material Subsidiaries' operations except in compliance in all material respects with applicable Environmental Laws; (iii) timely obtain or file, and will cause its Material Subsidiaries to obtain or file, as applicable, all material Environmental Permits, if any, required under applicable Environmental Laws to be obtained or filed in connection with the operation or use of Parent's, the Borrower's or its Material Subsidiaries' material Properties; (iv) commence and diligently prosecute to completion, and will cause its Material Subsidiaries to commence and diligently prosecute to completion, as applicable, any assessment, evaluation, investigation, monitoring, containment, cleanup, removal, repair, restoration, remediation or other remedial obligations (collectively, the "Remedial Work") in the event any Remedial Work is required under applicable Environmental Laws because of or in connection with the actual or suspected past, present or future Release or Threatened Release of any Hazardous Material on, under, about or from any of Parent's, the Borrower's or its Material Subsidiaries' Properties; (v) conduct its operations and businesses, and cause its Subsidiaries to conduct their respective operations and businesses, in a manner that will not expose any Property or Person to Hazardous Materials that could reasonably be expected to form the basis for a material claim for damages or compensation; and (vi) establish and implement such procedures as may be necessary to continuously determine and assure that Parent's, the Borrower's and its Material Subsidiaries' obligations under this Section 8.10 are timely and fully satisfied.

(b) The Borrower will promptly, but in no event later than ten (10) Business Days after any Loan Party obtains knowledge thereof, notify the Administrative Agent and the Lenders in writing of any threatened action, investigation or inquiry by any Governmental Authority or any threatened demand or lawsuit by any Person against Parent, the Borrower or their Material Subsidiaries or their respective Properties of which a Loan Party has knowledge in connection with any Environmental Laws if the Borrower could reasonably anticipate that such action will result in liability (whether individually or in the aggregate) in excess of $10,000,000, not fully covered by insurance, subject to normal deductibles.

(c) If reasonably requested by the Administrative Agent, each of Parent and the Borrower will, and will cause its Subsidiaries that are Loan Parties to, provide the Administrative Agent with any environmental assessments, audits and tests that have been conducted with respect to Parent, the Borrower, any of their Subsidiaries that are Loan Parties or their respective Properties.

Section 8.11 Further Assurances.

(a) Each of Parent and the Borrower will, at its sole expense, and will cause each of its Subsidiaries that are Loan Parties to, promptly execute and deliver to the Administrative Agent and/or the Collateral Agent all such other documents, agreements and instruments reasonably requested by the Administrative Agent or the Collateral Agent to comply with or accomplish the conditions precedent, covenants and agreements of the Loan Parties, as the case may be, in the Loan Documents, including the Notes, or to further evidence and more fully describe the Collateral intended as security for the Secured Obligations, or to correct any omissions in the Security Documents, or to state more fully the obligations secured therein, or to perfect, protect or preserve any Liens created pursuant to this Agreement or any of the Security Documents or the priority thereof, or to make any recordings, file any notices or obtain any consents, all as may be reasonably necessary or appropriate, in the reasonable discretion of the Administrative Agent, in connection therewith, other than Excluded Perfection Actions. In addition, at the Administrative Agent's request, Borrower will, and will cause each other Loan Party to, at its sole expense, provide any information requested to identify any Collateral pledged by it, including an updated Perfection Certificate, exhibits to Mortgages in form and substance reasonably satisfactory to the Administrative Agent (which such exhibits shall be in recordable form for the applicable jurisdiction) or any other information requested in connection with the identification of any Collateral.

(b) Each of Parent and the Borrower hereby authorizes the Collateral Agent to file one or more financing or continuation statements against it and any of their Subsidiaries that are Loan Parties, and amendments thereto, relative to all or any part of the Collateral without the signature of Parent, the Borrower or any of their Subsidiaries that are Loan Parties where permitted by law. A carbon, photographic or other reproduction of the Security Documents or any financing statement covering such Collateral or any part thereof shall be sufficient as a financing statement where permitted by law. Each of Parent and the Borrower acknowledges and agrees that any financing statement may describe the Collateral as "all assets" of it or its Subsidiaries that are Loan Parties (or words of similar effect as may be required by the Collateral Agent).

Section 8.12 Additional Collateral.

(a) Additional Collateral. With respect to any property (other than Excluded Assets) acquired after the Closing Date by any Loan Party as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected Lien, promptly (and in any event, within thirty (30) days of such acquisition (or such later date as the Collateral Agent may agree in its sole discretion)), each of Parent and the Borrower will, and will cause its Material Subsidiaries to, (i) execute and deliver to the Collateral Agent such amendments to the Guarantee and Collateral Agreement or amend or enter into Canadian Security Documents, as applicable, as the Administrative Agent deems necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a security interest in such property, subject to Permitted Liens and (ii) take all actions (other than Excluded Perfection Actions) requested by the Collateral Agent to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first priority security interest in such property, including the filing of UCC financing statements and Patent, Trademark and Copyright Security Agreements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or the Canadian GSA, as applicable, or by law or as may be requested by the Collateral Agent or the Administrative Agent.

(b) Material Real Property. If any Loan Party acquires at any Real Property Right that is Material Real Property not covered by a Mortgage, within ninety (90) days of such acquisition (or such later date as the Administrative Agent may agree), the Borrower will, or will cause the applicable Loan Party to, execute, deliver and record a new Mortgage or a supplement to an existing Mortgage, as applicable, reasonably satisfactory in form and substance to the Administrative Agent and the Collateral Agent, subjecting such Material Real Property to the lien and security interest created by such Mortgage. The Administrative Agent shall have received with respect to such Mortgage or a supplement to an existing Mortgage, as applicable:

(i) a policy of title insurance (or marked up unconditional title insurance commitment having the effect of a policy of title insurance) insuring the Lien of such Mortgage as a valid first mortgage Lien on the Mortgaged Property and fixtures described therein in an amount not less than the fair market value of such Mortgaged Property and fixtures, as reasonably determined by Borrower, Administrative Agent and the Title Company, which policy (or such marked up unconditional title insurance commitment) (each, a "Title Policy") shall (A) be issued by the Title Company, (B) have been supplemented by such endorsements as shall be reasonably requested by the Collateral Agent, (C) contain no exceptions to title solely as to the Material Real Property other than Excepted Liens, and (D) otherwise be in form and substance reasonably acceptable to the Collateral Agent;

(ii) evidence reasonably acceptable to the Collateral Agent of payment by the Borrower or applicable Loan Party of all Title Policy premiums, search and examination charges, escrow charges and related charges, mortgage recording taxes, fees, charges, costs and expenses required for the recording of the Mortgage and issuance of the Title Policy;

(iii) such affidavits, certificates, information (including financial data) and instruments of indemnification (including a so-called "gap" indemnification) as reasonably and customarily required by the Title Company to issue the Title Policies and endorsements, in each case, in form and substance reasonably acceptable to the Borrower;

(iv) with respect to fee owned Material Real Property and, to the extent requested by the Administrative Agent in its reasonable discretion (and subject to the rights of the applicable Loan Party to undertake such a survey pursuant to the terms of its lease or license), with respect to leasehold or licensed interests, an ALTA/NSPS survey of the applicable Mortgaged Property in form and substance reasonably acceptable to the Administrative Agent and the Title Company or an existing survey together with an "affidavit of no change" sufficient for the Title Company to remove the standard survey exception and provide the survey related endorsements and such other documents as required by this Section 8.12(b);

(v) (A) "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property; and (B) in the event any such property is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area, (x) a notice about special flood hazard area status and flood disaster assistance, duly executed by the Borrower or applicable Loan Party, (y) evidence of flood insurance with a financially sounds and reputable insurer, naming the Administrative Agent, as mortgagee, in an amount and otherwise in form and substance reasonably satisfactory to the Administrative Agent, and (z) evidence of the payment of premiums in respect thereof in form and substance reasonably satisfactory to the Administrative Agent; and

(vi) a customary legal opinion of local counsel with respect to such Mortgage regarding the due authorization, execution, delivery, perfection and enforceability of each such Mortgage, the corporate formation, existence and good standing of the applicable Loan Party and such other matters as may be reasonably requested by the Administrative Agent, in each case, addressed to the Administrative Agent and the Lenders and in form and substance reasonably acceptable to the Administrative Agent.

(c) Material Contracts. With respect to any Material Contract entered into or otherwise acquired, or upon qualification of a contract as a Material Contract pursuant to clause (g) of the definition thereof, in each case, after the Closing Date, each of Parent and the Borrower will, and will cause each Material Joint Venture and each other Material Subsidiary to, cause such Material Contract to permit or otherwise be subject to the Lien of the Collateral Agent under the Security Documents free and clear of any restriction on the granting of such Liens or the ability of the Collateral Agent (on behalf of the Secured Parties) to enforce such Liens concurrently with the execution of such Material Contract or substantially concurrently with the qualification of such contract as a Material Contract, as applicable, including, if necessary, by causing the applicable counterparty to execute and deliver a Consent Agreement.

(d) Material Subsidiaries. In the event that any Person becomes a Material Subsidiary of Parent or the Borrower after the Closing Date, Parent or the Borrower will, and will cause the applicable Material Subsidiary, (i) within forty-five (45) days of the end of the fiscal quarter in which such Person becomes a Material Subsidiary of such event (or such later date as the Administrative Agent may agree in its sole discretion), to cause such Person to become (A) a Guarantor and "Grantor" or "Debtor", as applicable, and, if applicable, a "Mortgagor" (or other similar term, each as defined in the relevant Security Document) by (x) executing and delivering to Collateral Agent a counterpart agreement, amendment or supplement to each applicable Security Document in accordance with its terms and (y) if requested by the Administrative Agent, entering into or amending a Security Document with the Collateral Agent for the benefit of the Secured Parties to create a first priority security interest and Lien in the assets of such Subsidiary and providing such other documents with respect to real property Collateral and (B) to the extent not yet or otherwise required by the Security Documents, pledge or cause to be pledged all of the Equity Interests of any such Material Subsidiary (or any other Material Joint Venture) to the Collateral Agent for the benefit of the Secured Parties, together with an appropriate undated transfer power for each certificate duly executed in blank by the registered owner thereof, to be delivered to the Collateral Agent, for the benefit of the Secured Parties, free and clear of all Liens (other than, with respect to any Collateral (other than any Equity Interests), Permitted Liens, and in the case of the Equity Interests, non-consensual obligations imposed by operation of law) and (ii) take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, opinions and certificates reasonably requested by the Majority Lenders.

(e) Titled Vehicles of Significance. In the event that any Loan Party acquires a Titled Vehicle of Significance after the Closing Date or any Person owning any Titled Vehicle of Significance becomes a Loan Party after the Closing Date, the Borrower shall cause the Collateral Agent to have a first priority perfected security interest (subject to Permitted Liens) and Lien in such Titled Vehicle of Significance within thirty (30) days of acquisition thereof (or such later date as the Administrative Agent may agree in its sole discretion), in a manner reasonably acceptable to the Administrative Agent (including by executing and filing with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication of the security interest created under the Guarantee and Collateral Agreement or the Canadian Security Documents, as applicable, on the applicable certificate of title).

(f) Flood Laws. Upon the request by any Lender (or any potential Lender who has entered into a binding agreement to become a Lender) subject to the Flood Laws, provide the Administrative Agent with evidence that any applicable Loan Party has taken all actions required under the Flood Laws and/or reasonably requested by any such Lender, to assist in ensuring that each such Lender is in compliance with the Flood Laws applicable to the Collateral to the extent such Collateral includes any "building" or "mobile home" (each as defined in Regulation H as promulgated by the Federal Reserve Board under the Flood Laws), including, but not limited to, providing the Administrative Agent with the address, legal description and/or GPS coordinates of each structure on any Material Real Property, whether owned or leased, that is or will be subject to a Mortgage in favor of the Collateral Agent, for the benefit of the Secured Parties, and, to the extent required, obtaining flood insurance.

(g) Flood Diligence. If requested by the Administrative Agent or any Lender, each of Parent and the Borrower will, and will cause each of its Subsidiaries that is a Loan Party to, cooperate with and provide any information reasonably necessary for the Administrative Agent or such Lender, as the case may be, to conduct its flood due diligence and flood insurance compliance.

Section 8.13 ERISA Compliance. Each of Parent and the Borrower will, and will cause its Subsidiaries that are Loan Parties and any ERISA Affiliate to, promptly furnish to the Administrative Agent (a) if requested in writing by the Administrative Agent, promptly after the filing thereof with the United States Secretary of Labor, PBGC or the Internal Revenue Service, copies of each annual and other report with respect to each Plan (as applicable) or any trust created thereunder, (b) promptly following receipt thereof, copies of any documents described in Section 101(k) or 101(l) of ERISA that Parent, the Borrower, any of their Subsidiaries that are Loan Parties or any ERISA Affiliate may request or receive with respect to any Multiemployer Plan or any documents described in Section 101(f) of ERISA that Parent, the Borrower, any of their Subsidiaries that are Loan Parties or any ERISA Affiliate may request or receive with respect to any Plan; provided that if Parent, the Borrower, any of their Subsidiaries that are Loan Parties or any ERISA Affiliate have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan or Plan, then, upon reasonable request of the Administrative Agent, Parent, the Borrower, their Subsidiaries that are Loan Parties or ERISA Affiliate, as applicable, shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof, and (c) immediately upon becoming aware of the occurrence of any ERISA Event that could result in material liability, a written notice signed by the president or any other Responsible Officer of Parent, the Borrower, such Subsidiary that is a Loan Party or such ERISA Affiliate, as the case may be, specifying the nature thereof, what action Parent, the Borrower, such Subsidiary or such ERISA Affiliate is taking or proposes to take with respect thereto, and, when known, any action taken or proposed by the Internal Revenue Service, PBGC or the Department of Labor with respect thereto.

Section 8.14 Control Agreements. Each of Parent and the Borrower will, and will cause each of its Subsidiaries that are Loan Parties to, cause each Deposit Account, Securities Account or Commodity Account of the Loan Parties (other than Excluded Accounts) to be subject to a Control Agreement (a) with respect to Deposit Accounts, Securities Accounts or Commodity Accounts in existence as of the Closing Date, within thirty (30) days of the Closing Date (or such longer period as the Administrative Agent may agree in writing) and (b) with respect to Deposit Accounts, Securities Accounts or Commodity Accounts entered into after the Closing Date, at the time entered into and at all times thereafter.

Section 8.15 Casualty Events.

(a) If a Casualty Event occurs with respect to any Collateral, each of Parent and the Borrower will, and will cause each of its Subsidiaries that are Loan Parties to, (i) use commercially reasonable efforts to pursue all its rights to compensation against any Person with respect to such Casualty Event and (ii) cause the Net Cash Proceeds therefrom to be applied to prepayment of the Loans or otherwise toward a Reinvestment in assets constituting Collateral in accordance with Section 3.04(b)(i).

(b) The Administrative Agent shall, upon the occurrence and during the continuance of an Event of Default, be entitled to participate in any compromise, adjustment or settlement in connection with any Casualty Event under any policy or policies of insurance or in respect of any proceeding with respect to any Casualty Event.

Section 8.16 Consent Agreements . Within thirty (30) days following the Closing Date (or such later date as the Administrative Agent may agree), the Borrower shall have used commercially reasonable efforts to provide the Administrative Agent with copies of duly executed Consent Agreements with respect to the TotalEnergies DR JV Agreement and any other Material Contract to the extent reasonably requested by the Administrative Agent, in each case, in form and substance reasonably satisfactory to the Administrative Agent, to permit the granting of Liens on the Equity Interests of such joint venture in favor of the Collateral Agent, and the enforcement of such Liens by the Collateral Agent (including a transfer and/or other disposition of such Equity Interests upon foreclosure of such Liens) pursuant to the Security Documents, free of any restrictions or other limitations otherwise contained in the TotalEnergies DR JV Agreement or such other Material Contract, as applicable.

Section 8.17 Post-Closing Obligations. Parent and the Borrower shall, and shall cause each other Loan Party to, comply with the post-closing obligations set forth on Schedule 8.17 hereto within the time periods set forth therein.

ARTICLE IX
NEGATIVE COVENANTS

Until Payment in Full, each of Parent and the Borrower covenants and agrees with the Lenders and the Administrative Agent that:

Section 9.01 Financial Covenants. Neither Parent nor the Borrower will permit (the tests in Section 9.01(a), Section 9.01(b) and Section 9.01(c), the "Financial Covenants"):

(a) Total Leverage Ratio. The Total Leverage Ratio as of any Test Date with respect to the Test Period ending on such Test Date to exceed (i) with respect to each of the fiscal quarters ending on December 31, 2022, March 31, 2023, June 30, 2023, September 30, 2023 and December 31, 2023, 3.50:1.00, (ii) with respect to each of the fiscal quarters ending on March 31, 2024, June 30, 2024, September 30, 2024 and December 31, 2024, 3.00:1.00 and (iii) with respect to the fiscal quarter ending on March 31, 2025 and each of the fiscal quarters thereafter, 2.50:1.00.

(b) Interest Coverage Ratio. The Interest Coverage Ratio as of any Test Date with respect to the Test Period ending on such Test Date to be less than 2.00:1.00.

(c) Minimum Liquidity. Liquidity at any time to be less than $10,000,000.

Section 9.02 Indebtedness. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, incur, create, assume or suffer to exist any Indebtedness, except:

(a) the Secured Obligations arising under the Loan Documents or any guarantee of the Secured Obligations arising under the Loan Documents;

(b) Indebtedness of Parent, the Borrower and their Subsidiaries under Capital Leases and purchase money obligations and contingent obligations under grant agreements to finance the acquisition, construction or improvement of any fixed or capital assets not to exceed, in the aggregate at any time outstanding, $10,000,000;

(c) unsecured Indebtedness associated with worker's compensation claims, bonds or surety obligations required by Governmental Requirements or unaffiliated third parties or otherwise in the ordinary course of business;

(d) intercompany Indebtedness (i) between any Loan Party payable to any other Loan Party, (ii) between any Subsidiary that is not a Loan Party payable to any other Subsidiary that is Loan Party, (iii) between Subsidiaries that are not Loan Parties, and (iv) to the extent not otherwise permitted under clauses (i) through (iii) and to the extent constituting Indebtedness, Investments permitted and incurred under Section 9.05(r); provided that any such Indebtedness shall be subordinated to the Secured Obligations on terms set forth in the Guarantee and Collateral Agreement or the Canadian Security Documents, as applicable;

(e) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services, in each case incurred in the ordinary course of business; provided that such Indebtedness is extinguished within ten (10) Business Days of its incurrence;

(f) Guarantees by a Loan Party of Indebtedness or other obligations of another Loan Party to the extent otherwise permitted under this Section 9.02;

(g) Indebtedness existing as of the Closing Date and set forth on Schedule 9.02, so long as the aggregate principal amount of any such Indebtedness does not exceed the aggregate principal amount thereof as of the Closing Date plus any interest and fees added to principal in accordance with the terms thereof as of the Closing Date;

(h) Indebtedness consisting of take-or-pay obligations contained in supply arrangements that do not constitute guarantees incurred in the ordinary course of business;

(i) obligations in respect of Hedging Agreements for the purpose of hedging against exposure to interest rates, foreign exchange rates or commodities pricing risks incurred in the ordinary course of business and not for speculative purposes, including normal purchase/normal sale gas agreements and other Hedging Agreements entered into in accordance with the hedging policy approved by the board of directors of Parent for commodity risk;

(j) Indebtedness incurred by the PlasmaFlow JV so long as such Indebtedness has no recourse to any direct or indirect holder of the Equity Interests of the PlasmaFlow JV or their assets;

(k) Indebtedness consisting of guarantees resulting from the endorsement of negotiable instruments for collection in the ordinary course of business;

(l) cash management obligations, including Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs, other credit cards, credit card processing services, debit cards, stored value cards, commercial cards (including so-called "purchase cards", "procurement cards" or "p-cards") or other cash management services and similar arrangements in the ordinary course of business;

(m) Indebtedness consisting of the financing of insurance premiums incurred in the ordinary course of business and consistent with past practice;

(n) Indebtedness incurred by the Borrower or any of its Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(o) (i) unsecured obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by Parent in an aggregate amount not to exceed $50,000,000 at any time outstanding or (ii) obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with past practice, in an aggregate amount not to exceed $10,000,000 at any time outstanding; and

(p) other Indebtedness in an aggregate principal amount not to exceed $5,000,000 at any time outstanding.

Section 9.03 Liens. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any of its Properties (now owned or hereafter acquired), except:

(a) Liens securing the payment of any Secured Obligations pursuant to the Security Documents;

(b) Excepted Liens;

(c) Liens securing Indebtedness permitted by Section 9.02(b) but only on the Property under lease or financed thereby (and the proceeds thereof);

(d) Liens on cash, Cash Equivalents or securities pledged to secure performance of tenders, surety and appeal bonds, government contracts, performance and return of money bonds, bids, trade contracts, leases, statutory obligations, regulatory obligations and other obligations of a like nature incurred in the ordinary course of business, including to secure letters of credit posted in respect of any of the foregoing;

(e) judgment and attachment Liens not giving rise to an Event of Default; provided that any appropriate legal proceedings which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within which such proceeding may be initiated shall not have expired and no action to enforce such Lien has been commenced;

(f) Liens existing on the Closing Date as set forth on Schedule 9.03 and any modifications, replacements, renewals, refinancings or extensions thereof; provided that such Liens shall secure only those obligations which they secure on the date hereof, including fees and interest that may accrue under the terms thereof as of the Closing Date (or any refinancing, extension, renewal or refunding thereof) and shall not subsequently apply to any other property or assets of the Loan Parties or any of their respective Subsidiaries;

(g) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, health, disability or employee benefits, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto and letters of credit or bank guarantees in respect thereof) and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any of its Subsidiaries;

(h) non-exclusive leases, licenses, cross-licenses, subleases or sublicenses of Property (including with respect to Intellectual Property) granted third parties in the ordinary course of business which do not interfere in any material respect with the business of the Loan Parties, taken as a whole;

(i) Liens on goods in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business and consistent with past practice or industry practice;

(j) any interest or title (and all encumbrances and other matters affecting such interest or title) of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases, subleases, licenses, cross-licenses or sublicenses entered into in the ordinary course of business and consistent with past practice;

(k) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into in the ordinary course of business;

(l) Liens on cash and Cash Equivalents securing obligations in respect of Hedging Agreements permitted under Section 9.02(i) in an aggregate amount not to exceed $4,000,000 at any one time outstanding;

(m) Liens that are contractual rights of set-off or rights of pledge (i) relating to the establishment of depository relations with banks or other deposit-taking financial institutions and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any of its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any of its Subsidiaries, (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of its Subsidiaries in the ordinary course of business or (iv) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

(n) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(o) Liens arising from precautionary UCC (or equivalent statutes) financing statements or similar public filings;

(p) Liens on cash or Cash Equivalents securing Indebtedness permitted by Section 9.02(l) in an aggregate amount not to exceed $1,000,000; and

(q) Liens not otherwise permitted under this Section 9.03 that (i) are not incurred in connection with the incurrence of, and do not otherwise secure, funded Indebtedness and (ii) secure obligations not to exceed $5,000,000 in the aggregate at any time.

For the avoidance of doubt, no intention to subordinate any Lien granted in favor of the Collateral Agent and the Lenders is to be hereby implied or expressed by the permitted existence of Permitted Liens or by indicating that any such Lien is subject to any Permitted Lien.

Section 9.04 Restricted Payments. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, return any capital to the holders of its Equity Interests or make any distribution of its Property to its Equity Interest holders, except that (a) any Loan Party may make a Restricted Payment to another Loan Party ratably with respect to its Equity Interests; (b) the Borrower and its Subsidiaries may declare and pay dividends with respect to their respective Equity Interests payable solely in additional Equity Interests in the form of common equity; (c) any Loan Party may repurchase Equity Interests in the Borrower or any Subsidiary of the Borrower deemed to occur upon exercise of stock options or warrants or the settlement or vesting of other equity-based awards if such Equity Interests represent a portion of the exercise price of, or tax withholding with respect to, such options, warrants or other equity-based awards; (d) so long as no Event of Default has occurred and is continuing immediately after giving pro forma effect thereto, the Loan Parties may (i) pay (or make Restricted Payments to allow the Borrower or any other direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests or settlement of equity-based awards of such Subsidiary (or of the Borrower or any other such direct or indirect parent thereof) held by any future, present or former employee, officer, director, manager, member of management or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees, distributees or permitted transferees of any of the foregoing) of such Subsidiary (or the Borrower or any other direct or indirect parent thereof) or any of its Subsidiaries solely to the extent the Borrower or its Subsidiaries is obligated to make such payment in connection with the termination or death of such individual or (ii) make Restricted Payments in the form of distributions to allow Parent to pay principal or interest on promissory notes that were issued to any future, present or former employee, officer, director, manager, member of management or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees, distributees or permitted transferees of any of the foregoing) of such Subsidiary (or the Borrower or any other direct or indirect parent thereof) or any of its Subsidiaries in lieu of cash payments for the repurchase, retirement or other acquisition or retirement for value of such Equity Interests or equity-based awards held by such Persons, in each case, upon the death, disability, retirement or termination of employment or services, as applicable, of any such Person or pursuant to any employee, officer, director, manager or management equity plan, employee, officer, director, manager or management stock option plan or any other employee, officer, director, manager or management benefit plan or any agreement (including any stock subscription agreement, shareholder agreement or stockholders' agreement) with any employee, officer, director, manager, member of management or consultant of such Subsidiary (or the Borrower or any other direct or indirect parent thereof) or any of its Subsidiaries solely to the extent the Borrower or its Subsidiaries is obligated to make such payment in connection with the termination or death of such individual; provided that the aggregate amount of Restricted Payments made pursuant to this clause (d) shall not exceed $5,000,000 in any calendar year; (e) any Loan Party may pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any permitted Investment; (f) Parent's purchase, redemption, retirement, or other acquisition of shares of its Equity Interests with the proceeds received from a substantially concurrent issue of new shares of its Equity Interests; (g) cashless repurchases of Equity Interests deemed to occur upon exercises of options and warrants or the settlement or vesting of other equity awards if such Equity Interests represent a portion of the exercise price of such options or warrants or similar equity incentive awards; and (h) exchanges, redemptions or conversions in whole or in part any of its Equity Interests for or into another class of its Equity Interests.

Section 9.05 Investments, Loans and Advances. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, make or permit to remain outstanding any Investments in or to any Person, except that the foregoing restriction shall not apply to:

(a) accounts receivable or notes receivable arising in the ordinary course of business (including any instrument evidencing the same and any instrument, security or other asset acquired through bona fide collection efforts with respect to the same);

(b) Investments in Cash Equivalents;

(c) Investments by any Loan Party in any other Loan Party;

(d) Guarantees permitted pursuant to Section 9.02;

(e) to the extent constituting an Investment, Capital Expenditures made in the ordinary course of business of the Loan Parties and their Subsidiaries;

(f) Investments (other than the making of any member loan) in any Material Joint Venture in accordance with the terms of the Organizational Documents of such Material Joint Venture, so long as no Default or Event of Default has occurred and is continuing or would immediately result therefrom;

(g) Investments in existence as of the Closing Date and set forth on Schedule 9.05 as of the Closing Date;

(h) any Investment in securities or other assets not constituting Cash Equivalents and received in connection with a Disposition made pursuant to Section 9.10 hereof or any other disposition of assets not constituting a Disposition;

(i) Hedging Agreements permitted under Section 9.02(i);

(j) advances, loans or extensions of trade credit in the ordinary course of business;

(k) Investments in prepaid expenses, deposits and advances, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business;

(l) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(m) non-cash loans to employees, officers, or directors relating to the purchase of Equity Interests of the Borrower pursuant to employee stock purchase plans or agreements;

(n) Investments received in connection with any proceeding commenced under any insolvency proceeding in respect of any customers, suppliers or clients or in settlement of delinquent obligations of, and other disputes with, customers, suppliers or clients or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(o) Investments permitted under Section 9.09;

(p) Investments consisting of deposits constituting Permitted Liens;

(q) with the prior written consent of the Administrative Agent in its sole and absolute discretion, Investments in joint ventures that do not constitute Material Joint Ventures; provided that (i) the Administrative Agent (A) has received copies of the initial letter of intent, joint development agreement and/or similar agreement with respect to such potential joint venture and any additional information and documents furnished or received in connection therewith (including copies of the limited liability company agreement and other documents contemplated to govern such joint venture) and (B) has agreed in writing, in its sole and absolute discretion, to permit Parent, the Borrower or any other Loan Party to enter into such additional joint venture and (ii) the Organizational Documents of such joint venture are free of any restrictions or other limitations on granting a Lien (and enforcing such Lien) on the Equity Interests of such joint venture in favor of the Collateral Agent; and

(r) other Investments (valued at the time each such Investment is made) in the aggregate at any time outstanding not to exceed $5,000,000.

Section 9.06 Nature of Business; Subsidiaries; International Operations.

(a) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, (i) engage to any material extent in any business other than businesses of the type conducted by the Loan Parties on the Closing Date and businesses reasonably related or ancillary thereto, (ii) make any expenditure or commitment or incur any obligation, enter into or engage in any transaction or engage directly or indirectly in any business or conduct any operations except in connection with or incidental to the businesses and operations conducted by the Loan Parties on the Closing Date and businesses reasonably related or ancillary thereto or (iii) conduct any material business or operations outside of the United States, Canada or Italy other than (A) registrations of Intellectual Property outside of the United States, Canada or Italy, (B) transactions with joint venturers or other investors organized or located outside of the United States, Canada or Italy to the extent consistent with past practice, and (C) business and operations materially consistent with the business and operations of the Loan Parties and their Subsidiaries as of the date hereof.

(b) Neither Parent nor the Borrower will have any Subsidiaries that are not wholly-owned Domestic Subsidiaries other than (i) NG Advantage, (ii) CEFS and (iii) Mansfield Clean Energy Partners, LLC.

Section 9.07 Proceeds of Loans.

(a) The Borrower will not permit the proceeds of the Loans to be used for any purpose other than those permitted by Section 7.20. None of Parent the Borrower nor any Person acting on behalf of Parent or the Borrower has taken or will take any action which might cause any of the Loan Documents to violate Regulations T, U or X or any other regulation of the Board or to violate Section 7 of the Securities Exchange Act of 1934 or any rule or regulation thereunder, in each case as now in effect or as the same may hereinafter be in effect. If reasonably requested by the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 or such other form referred to in Regulations T, U or X of the Board, as the case may be.

(b) The Borrower will not request any Borrowing, and the Borrower shall not use, and shall procure that any other Loan Party and its or their respective directors, officers, employees, Affiliates and agents shall not use, directly or indirectly, the proceeds of any Borrowing, or lend, contribute or otherwise make available such proceeds to any Subsidiary, other Affiliate, joint venture partner or other Person, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or AML Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or involving any goods originating in or with a Sanctioned Person or Sanctioned Country, or (iii) in any manner that would result in the violation of any Sanctions by any Person (including any Person participating in the transactions contemplated hereunder, whether as underwriter, advisor lender, investor or otherwise).

Section 9.08 ERISA Compliance. Except as could not reasonably be expected to have a Material Adverse Effect, neither Parent nor the Borrower will, and will not permit any of its Subsidiaries or any ERISA Affiliate to, at any time:

(a) engage in, in respect of any Plan, any transaction in connection with which Parent, the Borrower or any of their Subsidiaries is subjected to either a civil penalty assessed pursuant to subsections (c), (i), (l) or (m) of section 502 of ERISA or a tax imposed by Chapter 43 of Subtitle D of the Code;

(b) fail to make full payment when due of all amounts which, under the provisions of any Plan, agreement relating thereto or applicable law, Parent, the Borrower, or any of their Subsidiaries or any ERISA Affiliate is required to pay as contributions thereto; or

(c) contribute to or assume an obligation to contribute to or have any liability (contingent or otherwise), or assume an obligation to (i) any employee welfare benefit plan, as defined in section 3(1) of ERISA, including any such plan maintained to provide benefits to former employees of such entities, that may not be terminated by such entities in their sole discretion at any time without any material liability, or (ii) any employee pension benefit plan, as defined in section 3(2) of ERISA, that is subject to Title IV of ERISA, section 302 of ERISA or section 412 of the Code.

Section 9.09 Mergers, Etc. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or divide or Dispose of, all or substantially all its business units, assets or other properties, except that (a) any Subsidiary of the Borrower may merge into or consolidate with the Borrower or any Subsidiary Guarantor in a transaction in which the Borrower or such Subsidiary Guarantor is the surviving entity, (b) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets to the Borrower or any Subsidiary Guarantor in connection with or as a result of the liquidation or dissolution of such Subsidiary, (c) Permitted Investments shall be permitted, and (d) any Subsidiary of the Borrower that is not a Subsidiary Guarantor may merge into or consolidate with, or Dispose of all or substantially all of its assets to, another Subsidiary of the Borrower that is not a Subsidiary Guarantor.

Section 9.10 Sale of Properties. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, sell, assign, license, farm-out, convey or otherwise transfer or Dispose of any Property except for:

(a) the sale of inventory in the ordinary course of business;

(b) equipment that is worthless, surplus, or obsolete or worn out in the ordinary course of business, which is no longer used or useful in the conduct of its business or which is replaced by equipment of at least equal suitability and value;

(c) Dispositions of accounts receivable in connection with the compromise, settlement or collection thereof in the ordinary course of business;

(d) (i) issuance of Equity Interests by Parent or the Borrower, (ii) the issuance of Equity Interests by any Subsidiary of the Borrower to the Borrower or a Subsidiary Guarantor, or (iii) the issuance of Equity Interests by any Subsidiary of the Borrower that is not a Subsidiary Guarantor to any other Subsidiary of the Borrower that is not a Subsidiary Guarantor;

(e) (i) Dispositions to Parent, the Borrower or any Subsidiary Guarantor, and (ii) Dispositions by any Subsidiary of the Borrower that is not a Subsidiary Guarantor to any other Subsidiary of the Borrower that is not a Subsidiary Guarantor;

(f) Dispositions resulting from any taking or condemnation of any Property of any Loan Party or any Subsidiary of any Loan Party by any Governmental Authority or any assets subject to a casualty;

(g) Dispositions, liquidations or use of Cash Equivalents in the ordinary course of business;

(h) the (i) licensing or sublicensing of Intellectual Property to third parties on a non-exclusive basis and (ii) allowing of any registrations or any applications for registration of any immaterial Intellectual Property to lapse or go abandoned, in each case, in the ordinary course of business;

(i) Dispositions set forth on Schedule 9.10 hereto;

(j) the unwinding of any Hedging Agreement voluntarily or pursuant to its terms;

(k) transfers of assets subject to a Casualty Event;

(l) Dispositions of property 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 Disposition are promptly applied to the purchase price of such replacement property;

(m) (i) leases, subleases, licenses, cross-licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower or any of its Subsidiaries and (ii) Dispositions of Intellectual Property no longer used in, useful to or practicable to maintain for, or that are not material to, the business of Parent, the Borrower or any of its Subsidiaries;

(n) to the extent constituting Dispositions, transactions permitted under Section 9.03, Section 9.04, Section 9.05 and Section 9.09;

(o) Dispositions of RINs in the ordinary course of business, including but not limited to Dispositions to BP Products North America Inc., BP Energy Company or their Affiliates pursuant to the bp Marketing Agreement; and

(p) other Dispositions of Property of fair market value not exceeding $5,000,000 in the aggregate for which any Loan Party or any Subsidiary of any Loan Party receives consideration in the form of cash or Cash Equivalents;

provided that, notwithstanding anything to the contrary contained in this Agreement or the other Loan Documents, except as required by the Organizational Documents of the applicable Material Joint Venture as in effect on the Closing Date, neither Parent nor the Borrower shall, and shall not permit its Subsidiaries to, Dispose of any Equity Interests of any Material Joint Venture that are owned by Parent, the Borrower or such Subsidiaries as of the Closing Date without the prior written consent of the Administrative Agent.

Section 9.11 Environmental Matters. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, cause any of its Property to be in violation of, or do anything which will subject any such Property to a Release or Threatened Release of Hazardous Materials, exposure to any Hazardous Materials, or to any Remedial Work under any Environmental Laws, assuming disclosure to the applicable Governmental Authority of all relevant facts, conditions and circumstances, if any, pertaining to such Property where such violations, Release or Threatened Release, exposure, or Remedial Work could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 9.12 Transactions with Affiliates. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, enter into any transaction, including any purchase, sale, lease or exchange of Property or the rendering of any service, with any Affiliate that is not a Loan Party except (a) such transactions as are otherwise permitted under this Agreement and are upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate, (b) transactions solely among Subsidiaries that are not Loan Parties, (c) employment, consulting, severance and other service or benefit related arrangements between the Borrower and its Subsidiaries and their respective officers, directors, managers, members of management, employees and consultants in the ordinary course of business and transactions pursuant to stock option and other equity award plans and employee benefit plans and arrangements in the ordinary course of business, on terms substantially as favorable to the Borrower or any of its Subsidiaries as would be obtainable by such entity at the time in a comparable arm's-length transaction with a Person other than an Affiliate, (d) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, managers, officers, members of management, employees and consultants of the Borrower and its Subsidiaries (or any direct or indirect parent of the Borrower) in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and its Subsidiaries, on terms substantially as favorable to the Borrower or any of its Subsidiaries as would be obtainable by such entity at the time in a comparable arm's-length transaction with a Person other than an Affiliate, (e) the issuance or transfer of Equity Interests (other than Disqualified Capital Stock) of Parent to any director, manager, officer, employee, member of management or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees, distributes or Affiliate of any of the foregoing) of the Borrower, any of the other Subsidiaries of the Borrower or any direct or indirect parent thereof and (f) transactions pursuant to agreements, instruments or arrangements in existence on the Closing Date and set forth on Schedule 9.12 hereto.

Section 9.13 Negative Pledge Agreements; Foreclosure Restrictions; Dividend Restrictions.

(a) Neither Parent nor the Borrower will, and will not permit any Material Joint Venture or any other Subsidiary to, create, incur, assume or suffer to exist any contract, agreement or understanding (other than the Loan Documents) which in any way prohibits or restricts the granting, conveying, creation or imposition of any Lien on any of its other Property in favor of the Collateral Agent and the Lenders (excluding any customary restrictions set forth in leases entered into in the ordinary course of business or purchase money financing agreements, in each case, that are permitted under this Agreement, but including, for the avoidance of doubt, any direct or indirect prohibition or restriction contained in a Material Contract with respect to the granting or creation of any Lien on such Material Contract or any Loan Party's, any Material Joint Venture's or any other Subsidiary's direct or indirect rights thereunder) or restricts any Subsidiary of any Loan Party from paying dividends or making distributions to Parent, the Borrower or any Subsidiary, as applicable, or which requires the consent of or notice to other Persons in connection therewith; provided that the foregoing shall not apply to (i) contractual obligations that exist on the Closing Date and set forth on Schedule 9.13 hereof or (ii) restrictions on Liens arising under (A) Capital Leases and purchase money Indebtedness creating Liens permitted by Section 9.03(c) but only on the Property subject of such Capital Lease, purchase money Indebtedness, (B) documentation in respect of cash collateral created Liens permitted by Section 9.03(d), Section 9.03(g) or Section 9.03(l), but only on the Property subject to such cash collateral arrangement or (C) grant agreements but solely with respect to Liens on property constructed or acquired with the proceeds of such grant agreements.

(b) Except as expressly contemplated under Section 8.16, neither Parent nor the Borrower will, and will not permit any Material Joint Venture or any other Subsidiary to, create, incur, assume or suffer to exist any direct or indirect prohibition or restriction (including, without limitation, any change of control or other transfer restrictions) with respect to the ability of the Collateral Agent (on behalf of the Secured Parties) to enforce any Lien on any Material Contract or any Loan Party's, any Material Joint Venture's or any other Subsidiary's direct or indirect rights thereunder in accordance with the terms of the Loan Documents.

Section 9.14 Hedging Agreements. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, enter into any Hedging Agreements with any Person without the consent of the Administrative Agent (not to be unreasonably withheld) other than as permitted under Section 9.05.

Section 9.15 Sale and Leaseback. Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, with any Person whereby it shall sell or transfer any Property, whether now owned or hereafter acquired, and thereafter rent or lease such Property which it intends to use for substantially the same purpose or purposes as the Property being sold or transferred.

Section 9.16 Amendments to Organizational Documents, Material Joint Ventures, Fiscal Year End.

(a) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, amend or otherwise modify (or permit to be amended or modified) its Organizational Documents to which it is a party, or take any action that would impair its rights under its Organizational Documents to which it is a party, in each case, in a manner that would be adverse to such Loan Party or such Subsidiary or the Lenders in any material respect.

(b) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, amend or otherwise modify (or permit to be amended or modified) the Organizational Documents of any Material Joint Venture to which it is a party, or take any action that would impair its rights under the Organizational Documents of any Material Joint Venture to which it is a party, in each case, in a manner that would be adverse to such Loan Party or such Subsidiary or the Lenders in any material respect.

(c) To the extent Parent, the Borrower or any of their Subsidiaries has consent or approval rights under the applicable Organizational Documents of any Material Joint Venture with respect to any action or inaction by such Material Joint Venture or any of its Subsidiaries that requires the consent or approval of all or a majority of the members of the applicable Material Joint Venture, none of Parent, the Borrower or their Subsidiaries shall grant such consent or approval without having first obtained the consent of the Administrative Agent (provided that such consent right shall be limited and qualified to the same extent that Parent's, the Borrower's or the applicable Subsidiaries' consent rights are limited and qualified under the applicable Organizational Documents of such Material Joint Venture) if such action or inaction could reasonably be expected to be material and adverse to the Lenders (in their capacities as such); provided that this Section 9.16(c) shall not apply to amendments, waivers or other modifications of the Organizational Documents of any Material Joint Venture, which amendments, waivers and other modifications shall be governed by Section 9.16(b).

(d) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, change the last day of its fiscal year from December 31 of each year, or the last days of the first three fiscal quarters in each of its fiscal years from March 31, June 30 and September 30 of each year, respectively, in each case, without the prior written consent of the Administrative Agent.

Section 9.17 Material Contracts.

(a) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries or any Material Joint Venture to, (i) cancel or terminate any Material Contract or consent to or accept any cancellation or termination of any such Material Contract (except such cancellations or terminations that would not trigger an Event of Default under Section 10.01(k)), (ii) sell, assign (other than pursuant to the Security Documents) or otherwise dispose of (by operation of law or otherwise) any part of its interest in any Material Contract (other than to a Loan Party) or consent (after the execution and delivery thereof) to any assignment (other than a collateral assignment to the Collateral Agent) by the other party thereto other than to an Affiliate of such party or a purchaser of all or substantially all assets of such party, (iii) to the extent material and adverse to the rights of the Lenders, waive any material default under, or material breach of, any Material Contract or waive, fail to enforce, forgive, compromise, settle, adjust or release any material right, interest or entitlement, howsoever arising, under, or in respect of any such Material Contract or in any way vary, or consent or agree to the variation of, any material provision of such Material Contract or of the performance of any material covenant or obligation by any other Person or consent (after the execution and delivery thereof) to any assignment (other than a collateral assignment to the Collateral Agent) by any other Person under any such Material Contract, in each case, without the consent of the Majority Lenders (such consent not to be unreasonably withheld or delayed), (iv) to the extent material and adverse to the rights of the Lenders, petition, request or take any other legal or administrative action that seeks, or may be expected, to impair any Material Contract or seeks to amend, modify or supplement any such Material Contract, in each case, without the consent of the Majority Lenders (such consent not to be unreasonably withheld or delayed), (v) to the extent material and adverse to the rights of the Lenders, amend, supplement or modify any Material Contract (in each case, as in effect when originally delivered to and accepted by the Administrative Agent) to which it is a party except as may be permitted pursuant to Section 9.17(b), in each case, without the consent of the Majority Lenders (such consent not to be unreasonably withheld or delayed) or (vi) enter into any new agreement or instrument replacing or substituting any Material Contract except to the extent such new or replacement is not material and adverse to the rights of the Lenders; in each case of each of the foregoing (other than clause (iii), clause (iv) and clause (v)), without first obtaining, the prior written approval of the Administrative Agent.

(b) Notwithstanding anything to the contrary in this Section 9.17 or any other provisions of this Agreement, (i) neither Parent nor the Borrower will, and will not permit any Material Joint Venture or any other Subsidiary to, at any time enter into any settlement of claims under any Material Contract, provided that Parent, the Borrower and their Subsidiaries may enter into any such settlements that do not exceed $5,000,000 in the aggregate during the term of this Agreement with the prior written consent of the Administrative Agent and (ii) no Loan Party shall be required to obtain the consent or other approval of the Administrative Agent or any Lender in respect of amendments, supplements, consents, waivers, or modifications of any Material Contract (A) effected to correct a clear and manifest error in such Material Contract or with respect to changes that are ministerial in nature or (B) that are not material and adverse to the rights of the Lenders. The Borrower shall promptly provide to the Administrative Agent a true, correct and complete copy of any modification, amendment or waiver of any Material Contract entered into in accordance with the foregoing.

Section 9.18 Material Indebtedness.

(a) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, directly or indirectly, repay, Redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any (i) Material Indebtedness (other than regularly scheduled interest payments, regularly scheduled principal payments and regularly scheduled payments of fees and expenses as and when due in respect of any such Material Indebtedness) or (ii) Indebtedness that is unsecured or required to be subordinated, in right of payment, to the Secured Obligations pursuant to the terms of the Loan Documents (collectively, "Junior Financing") or make any payment in violation of any subordination terms of any documentation governing any Junior Financing.

(b) Neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, amend, modify or change in any manner materially adverse to the interests of the Lenders any term or condition of any documentation governing Material Indebtedness without the consent of the Administrative Agent.

Section 9.19 Foreign Subsidiaries. Notwithstanding anything to the contrary contained herein or in any other Loan Document, neither Parent nor the Borrower will, and will not permit any of its Subsidiaries to, (a) form or acquire any Foreign Subsidiary after the Closing Date (except to the extent such Foreign Subsidiary becomes a Loan Party), (b) make any Investments in any Foreign Subsidiary after the Closing Date, other than any such Investments that are made in the ordinary course of business and consistent with past practice, (c) enter into any transaction, including any purchase, sale, lease or exchange of Property or the rendering of any service, with any Foreign Subsidiary, other than any such transactions that are entered into in the ordinary course of business and consistent with past practice or (d) Dispose of any Property to any Foreign Subsidiary, in each case, except formations, acquisitions, Investments, transactions, and Dispositions involving any Foreign Subsidiary formed under the laws of Canada (provided that such Foreign Subsidiary shall be required to become a Guarantor and a "Grantor" or "Debtor", as applicable, to the extent required under Section 8.12(d)). No Foreign Subsidiary (other than a Foreign Subsidiary that is a Loan Party) will own, directly or indirectly, any Material Real Property or engage in any business other than businesses of the type conducted by such Foreign Subsidiary on the Closing Date.

Section 9.20 Zero Balance Debt. Neither Parent nor Borrower will, and will not permit any other Loan Party to, incur any Indebtedness in respect of or under any Zero Balance Agreements.

ARTICLE X
EVENTS OF DEFAULT; REMEDIES

Section 10.01 Events of Default. One or more of the following events shall constitute an "Event of Default":

(a) Payments Under Loan Documents.

(i) Any Loan Party shall fail to pay any principal of or premium (if any) on any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof, by acceleration or otherwise.

(ii) Any Loan Party shall fail to pay any interest, fee or any other amount (other than an amount referred to in Section 10.01(a)) payable under any Loan Document, when and as the same shall become due and payable and failure to pay shall continue unremedied for a period of three (3) Business Days.

(b) Breach of Warranty. Any representation or warranty made or deemed made by or on behalf of any Loan Party or any Subsidiary of any Loan Party in or in connection with any Loan Document or any amendment or modification of any Loan Document or waiver under such Loan Document, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been materially incorrect when made or deemed made.

(c) Breach of Negative Covenants or Certain Other Covenants. Any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 8.01, Section 8.02, Section 8.03(a), Section 8.07, Section 8.12, Section 8.14, Section 8.16, Section 8.17 or Article IX.

(d) Breach of Other Covenants. Any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 10.01(a), Section 10.01(b) or Section 10.01(c)) or any other Loan Document and such failure shall continue unremedied for a period of thirty (30) days following the earlier to occur of (A) any Loan Party's knowledge of such failure or (B) receipt by the Borrower of written notice thereof from the Administrative Agent.

(e) Cross-Default. (i) Any Loan Party or any of its Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, after taking any applicable grace periods into account, or (ii) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the Redemption thereof or any offer to Redeem to be made in respect thereof, prior to its scheduled maturity or require such Loan Party or such Subsidiary to make an offer in respect thereof.

(f) Involuntary Proceedings. An involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Loan Party or any of its Material Subsidiaries of its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any of its Material Subsidiaries or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for forty-five (45) days or an order or decree approving or ordering any of the foregoing shall be entered.

(g) Voluntary Proceedings. Any Loan Party or any of its Material Subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 10.01(f), (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any corporate action for the purpose of effectuating any of the foregoing; or any Loan Party or any of its Subsidiaries shall become unable, admit in writing its inability or fail generally to pay its debts as they become due.

(h) Judgments; Etc. (i)(A) One or more final judgments or settlements for the payment of money in an aggregate amount in excess of $10,000,000 or (B) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, shall be rendered against or paid by any Loan Party or any of its Material Subsidiaries or any combination thereof, and (x) such final judgment or settlement is not discharged or vacated for more than thirty (30) days (after the date when due in the case of a settlement agreement), (y) in the case of such final judgment, the execution of which is not effectively stayed for a period of more than thirty (30) consecutive days and no action is legally taken by a judgment creditor or judgment creditors to attach or levy upon any assets of any Loan Party or any of its Subsidiaries to enforce any such judgment, or (z) such final judgment or settlement is not otherwise fully cash collateralized, bonded and/or covered by insurance from an insurer that is rated at least "A" by A.M. Best Company and such insurer has been notified of, and has not disputed the claim made for the payment of, the amount of such judgment or (ii) the invalidation, cancellation, surrender, retirement or loss of Environmental Credits of the Loan Parties or any of their Material Subsidiaries in excess of $10,000,000.

(i) Loan Document Unenforceable. The Loan Documents after delivery thereof shall for any reason, except to the extent permitted by the terms thereof, cease to be in full force and effect and valid, binding and enforceable in accordance with their terms against any Loan Party party thereto or any other party thereto or shall be repudiated by any of them, or cease to create a valid and perfected Lien of the priority required thereby on any part of the Collateral purported to be covered thereby, except to the extent permitted by the terms of this Agreement (including any release of such Liens in accordance with the terms of this Agreement and including Excluded Perfection Actions), or a Loan Party shall so state in writing.

(j) Breach of Material Contracts.

(i) Loan Party Breach. Any Loan Party, Material Joint Venture or any other Subsidiary of any Loan Party shall be in breach in any material respect of, or in default in any material respect under, a Material Contract and such breach or default shall continue unremedied for the period of time under such Material Contract which such Loan Party or such Subsidiary has available to it in which to remedy such breach or default.

(ii) Third Party Breach and Bankruptcy. Any counterparty to a Material Contract shall be in material breach of, or in material default under, any Material Contract; provided that no Event of Default shall occur as a result of any such breach or default if (A) in the case of any breach or default not involving any action or event of the type described in Section 10.01(f) or Section 10.01(g) with respect to such Material Contract counterparty (such action or event, an "MC Bankruptcy Event") (x) such breach or default is cured within thirty (30) days from the time Borrower obtains knowledge of such breach or default or (y) within such thirty (30) day period, the Borrower provides the Administrative Agent with a remedial plan of action describing how the effects of such breach or default by such counterparty will be mitigated or otherwise resolved and such remedial plan of action is acceptable to the Administrative Agent in its sole discretion (each, an "Acceptable Remediation Plan"), (B) in the case of a breach or default involving an MC Bankruptcy Event of such counterparty, (x) the applicable counterparty is substantially performing its remaining obligations with respect to the Material Contracts to which it is a party and has affirmed, within the time prescribed by law (not to exceed thirty (30) days), the applicable Material Contract or (y) the Borrower has provided an Acceptable Remediation Plan, or (C) to the extent the loss of such Material Contract is not material and adverse to the interests of the Lenders.

(k) Loss of Material Contract. Any Material Contract shall cease for any reason to be in full force and effect unless (i) terminated in accordance with its terms and not as a result of a default thereunder, (ii) within ten (10) Business Days from the time any Loan Party obtains knowledge thereof, the Borrower provides the Administrative Agent with an Acceptable Remediation Plan describing how the effects of the loss of such Material Contract will be mitigated or otherwise resolved, or (iii) the loss of such Material Contract will not be material and adverse to the interests of the Lenders.

(l) Change in Control. A Change in Control shall occur and the Secured Obligations are not paid in full concurrently with the consummation of such Change in Control.

(m) ERISA. (i) An ERISA Event shall have occurred or (ii) any Loan Party shall hold "plan assets," within the meaning of 29 C.F.R. § 2510.3-101 (as amended by Section 3(42) of ERISA), of an employee benefit plan (as defined in Section 3(3) of ERISA), which is subject to Title I of ERISA, or of any plan (within the meaning of Section 4975 of the Code), in either case, that could reasonably be expected to result in a Material Adverse Effect.

Section 10.02 Cure Right. In the event that Parent fails to comply with the requirements of any Financial Covenant set forth in Section 9.01(a) or Section 9.01(b), from the last date of the applicable Test Period until the expiration of the tenth (10th) Business Day after the applicable Test Date hereunder (the "Cure Expiration Date"), Parent shall have the right to issue Permitted Cure Equity for cash or otherwise receive cash contributions to the applicable equity capital of Parent and apply the amount of the proceeds thereof to increase EBITDA with respect to such applicable quarter (the "Cure Right"); provided that (a) such proceeds are actually received by Parent no later than ten (10) Business Days after the date on which financial statements are required to be delivered with respect to such Test Date hereunder, (b) such proceeds do not exceed the aggregate amount necessary to cure (by addition to EBITDA) such Event of Default under Section 9.01(a) or Section 9.01(b) for such period, (c) the Cure Right shall not be exercised in more than two (2) fiscal quarter periods during each Test Period, (d) the Cure Right shall not be exercised more than five (5) times during the term of the Loans, (e) there shall be no pro forma reduction in Indebtedness with the proceeds of the Cure Right for purposes of determining compliance with the financial covenants in Section 9.01(a) and Section 9.01(b) or for determining any pricing, financial covenant based conditions or baskets with respect to the covenants contained in this Agreement, in each case, in the fiscal quarter in which the Cure Right is used or subsequent periods that include such fiscal quarter, (f) such proceeds shall be applied to prepay the Loans in accordance with Section 3.04(b)(vii) and (g) until the Cure Expiration Date, neither any Agent nor any Lender shall exercise any rights or remedies under this Agreement (or under any other Loan Document) available during the continuance of any Default or Event of Default on the basis of the actual or purported failure to comply with any covenant set forth in Section 9.01(a) and/or Section 9.01(b) until such failure is not cured on or prior to the Cure Expiration Date. If, after giving effect to the foregoing pro forma adjustment (but not, for the avoidance of doubt, giving pro forma adjustment to any repayment of Indebtedness in connection therewith), Parent is in compliance with the financial covenants set forth in Section 9.01(a) and Section 9.01(b), Parent shall be deemed to have satisfied the requirements of such Section as of the relevant date of determination with the same effect as though there had been no failure to comply on such date, and the applicable breach or default of such Section 9.01(a) and Section 9.01(b) that had occurred shall be deemed cured for purposes of this Agreement. The parties hereby acknowledge that this Section 10.02 may not be relied on for purposes of calculating any financial ratios other than as applicable to Section 9.01(a) and Section 9.01(b) and shall not result in any adjustment to any amounts other than the amount of the EBITDA referred to in the immediately preceding sentence.

Section 10.03 Remedies.

(a) In the case of an Event of Default other than one described in Section 10.01(f) or Section 10.01(g), at any time thereafter during the continuance of such Event of Default, the Administrative Agent may, and at the request of the Majority Lenders, shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon, any Call Premium then applicable and all fees and other obligations of the Borrower and the other Loan Parties accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby waived by the Borrower and each other Loan Party; and in case of an Event of Default described in Section 10.01(f) or Section 10.01(g), the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon, any Call Premium then applicable and all fees and the other obligations of the Borrower and the other Loan Parties accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and each other Loan Party.

Without limiting the generality of the foregoing, it is understood and agreed that (x) if, prior to the Maturity Date, the Loans are accelerated or otherwise become due, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency related event (including the acceleration of claims by operation of law) or (y) upon the occurrence of the board of directors (or similar governing body or any Person having Control of any Loan Party (or any committee thereof) or of any directors (or similar governing body or any Person having Control) of any Loan Party (or any committee thereof) adopting any resolution or otherwise authorizing any action to approve any bankruptcy or insolvency related event (each of the foregoing in clauses (x) and (y) and as contemplated by the penultimate sentence of this paragraph, a "Specified Event")), the (i) Call Premium that would have applied if, at the time the Loans are accelerated or otherwise become due, the Borrower had repaid, prepaid, refinanced, substituted or replaced any or all of the Loans as contemplated in Section 3.04 and (ii) any fees payable under the Loan Documents, in each case, will also be automatically and immediately due and payable without further action or notice as though a Specified Event had occurred and the Call Premium and such fees shall constitute part of the Secured Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of the Lenders' lost profits and investment opportunity as a result thereof (and not as a penalty). Any Call Premium and fees payable above shall be presumed to be the liquidated damages (and not for the avoidance of doubt unmatured interest or a penalty) sustained by the Lenders as the result of payment or acceleration, as applicable, prior to the Maturity Date and the Borrower and the other Loan Parties agree that the Call Premium and such fees are reasonable under the circumstances currently existing. In the event the Secured Obligations are reinstated in connection with or following any Specified Event, it is understood and agreed that the Secured Obligations shall include any Call Premium and fees payable in accordance with the Loan Documents, including this Section 10.03. The Call Premium and any fees payable under the Loan Documents shall also be payable in the event the Secured Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other similar means. The obligation of the Borrower to pay the Call Premium under Section 3.04 is in addition to its obligation to pay the Call Premium under this Section 10.03.

THE LOAN PARTIES EXPRESSLY WAIVE (TO THE FULLEST EXTENT THEY MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING CALL PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Borrower and each other Loan Party expressly agrees (to the fullest extent that it may lawfully do so) that: (A) the Call Premium is reasonable and is the product of an arm's-length transaction between sophisticated business people, ably represented by counsel; (B) the Call Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Borrower and Guarantors giving specific consideration in this transaction for such agreement to pay the Call Premium; and (D) the Borrower and each other Loan Party shall each be estopped hereafter from claiming differently than as agreed to in this paragraph. The Borrower and each other Loan Party expressly acknowledges that its agreement to pay the Call Premium to the Lenders as herein described is a material inducement to the Lenders to provide the Commitments and make the Loans. In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Borrower or any other Loan Party with the intention of avoiding payment of the Call Premium that the Borrower would have had to pay if the Borrower then had elected to pay the Loans in full prior to the Maturity Date pursuant to Section 3.01 and/or Section 3.04, an equivalent premium, without duplication, will become and be immediately due and payable to the extent permitted by law upon the acceleration of the Loans.

(b) In the case of the occurrence of an Event of Default, the Administrative Agent and the Lenders will have all other rights and remedies available at law and equity.

(c) All proceeds realized from the liquidation or other disposition of Collateral or otherwise, and any amounts received on account of the Secured Obligations, received after maturity of the Loans, whether by acceleration or otherwise, shall be applied as follows:

(i) *first*, to payment or reimbursement of that portion of the Secured Obligations constituting fees, expenses and indemnities payable to the Administrative Agent and/or the Collateral Agent in such Agent's capacity as such;

(ii) *second,* pro rata to payment or reimbursement of that portion of the Secured Obligations constituting fees, expenses and indemnities payable to the Lenders;

(iii) *third*, pro rata to payment of accrued interest on the Loans;

(iv) *fourth*, pro rata to payment of principal and premium outstanding on the Loans;

(v) *fifth*, pro rata to all other Secured Obligations; and

(vi) *sixth*, any excess, after all of the Secured Obligations shall have been indefeasibly paid in full in cash, shall be paid to the Borrower or as otherwise required by any Governmental Requirement.

ARTICLE XI
THE AGENTS

Section 11.01 Appointment; Powers.

(a) Each of the Lenders hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article (excluding Section 11.10) are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any Guarantor shall have rights as a third party beneficiary of any of such provisions.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto.

(c) The Lead Arranger shall be entitled to all benefits of this Article XI.

Section 11.02 Duties and Obligations of Agents. No Agent shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing (the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent or the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law; rather, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties), (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except as provided in Section 11.03, and (c) except as expressly set forth herein, no Agent shall have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any other Loan Party or any of their Subsidiaries that is communicated to or obtained by the Person serving as Administrative Agent or Collateral Agent or any of their Affiliates in any capacity. No Agent shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Borrower or a Lender, and shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or under any other Loan Document or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or in any other Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article VI or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent or as to those conditions precedent expressly required to be to such Agent's satisfaction, (vi) the existence, value, perfection or priority of any collateral security or the financial or other condition of any Loan Party or any Subsidiary of any Loan Party or any other obligor or guarantor, or (vii) any failure by any Loan Party or any other Person (other than itself) to perform any of its obligations hereunder or under any other Loan Document or the performance or observance of any covenants, agreements or other terms or conditions set forth herein or therein. For purposes of determining compliance with the conditions specified in Article VI, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent or the Collateral Agent shall have received written notice from such Lender prior to the proposed closing date specifying its objection thereto.

Section 11.03 Action by Administrative Agent or Collateral Agent. Neither the Administrative Agent nor the Collateral Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise in writing as directed by the Majority Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 12.02) and in all cases such Agent shall be fully justified in failing or refusing to act hereunder or under any other Loan Documents unless it shall (a) receive written instructions from the Majority Lenders or the Lenders, as applicable, (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 12.02) specifying the action to be taken and (b) be indemnified to its satisfaction by the Lenders against any and all liability and expenses which may be incurred by it by reason of taking or continuing to take any such action. The instructions as aforesaid and any action taken or failure to act pursuant thereto by such Agent shall be binding on all of the Lenders. If a Default has occurred and is continuing, then the Administrative Agent and/or the Collateral Agent shall take such action with respect to such Default as shall be directed by the requisite Lenders in the written instructions (with indemnities) described in this Section 11.03; provided that, unless and until the Administrative Agent and/or the Collateral Agent shall have received such directions, such Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable in the best interests of the Lenders. In no event, however, shall any Agent be required to take any action which exposes such Agent to personal liability or which is contrary to this Agreement, the Loan Documents or applicable law. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Majority Lenders or the Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 12.02), and otherwise no Agent shall be liable for any action taken or not taken by it hereunder or under any other Loan Document or under any other document or instrument referred to or provided for herein or therein or in connection herewith or therewith including its own ordinary negligence, except for its own gross negligence or willful misconduct. No provision of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby shall require the Administrative Agent and/or the Collateral Agent to: (i) expend or risk its own funds or provide indemnities in the performance of any of its duties hereunder or the exercise of any of its rights or power or (ii) otherwise incur any financial liability in the performance of its duties or the exercise of any of its rights or powers.

Section 11.04 Reliance by Administrative Agent and Collateral Agent. The Administrative Agent and the Collateral Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by them to be genuine and to have been signed or sent by the proper Person and upon advice and statements of legal counsel (including counsel to the Loan Parties), independent accountants, consultants and other experts selected by any such Agent. The Administrative Agent and/or the Collateral Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon and each of the Borrower and the Lenders hereby waives the right to dispute such Agent's record of such statement, except in the case of gross negligence or willful misconduct by such Agent. Upon request by an Agent at any time, the Lenders will confirm in writing whether an action may be taken by it (and such Agent may deem the failure to respond to any such request in a timely manner as approval). In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Agents may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by them, and shall not be liable for any action taken or not taken by them in accordance with the advice of any such counsel, accountants or experts. The Administrative Agent may deem and treat the payee of any Note as the holder thereof for all purposes hereof unless and until a written notice of the assignment or transfer thereof permitted hereunder shall have been filed with the Administrative Agent.

Section 11.05 Subagents. Either Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. The Agents and any such sub-agent may perform any and all their duties and exercise their rights and powers through their respective Related Parties. The exculpatory provisions of the preceding Sections of this Article XI shall apply to any such sub-agent and to the Related Parties of such Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

Section 11.06 Resignation of Agents. Any Agent may resign at any time by notifying the Lenders and the Borrower. Upon any such resignation, the Majority Lenders shall have the right, with the consent of the Borrower (unless an Event of Default shall have occurred and is continuing and provided that no consents shall be required with respect to the appointment of a Lender or an Affiliate thereof and in event shall not be unreasonably withheld, delayed or conditioned), to appoint a successor. If no successor shall have been so appointed by the Majority Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation (the "Resignation Closing Date"), then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent. With effect from the Resignation Closing Date (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed) and (ii) except for any indemnity payments owed to the retiring or removed Agent, all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time, if any, as a successor Agent is appointed as provided for above. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After an Agent's resignation hereunder, the provisions of this Article XI and Section 12.03 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Agent.

Section 11.07 Administrative Agent as Lender. The Person serving as the Administrative Agent shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with Loan Party or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

Section 11.08 No Reliance. Each Lender acknowledges that it has, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and each other Loan Document to which it is a party. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document, any related agreement or any document furnished hereunder or thereunder. No Agent shall be required to keep itself informed as to the performance or observance by any Loan Party of this Agreement, the Loan Documents or any other document referred to or provided for herein or to inspect the Properties or books of any Loan Party. Except for notices, reports and other documents and information expressly required to be furnished to the Lenders by an Agent hereunder, no Agent nor the Lead Arranger shall have any duty or responsibility to provide any Lender with any credit or other information concerning the affairs, financial condition or business of any Loan Party (or any of its Affiliates) which may come into the possession of such Agent or the Lead Arranger or any of their respective Affiliates. In this regard, each Lender acknowledges that Simpson Thacher & Bartlett LLP is acting in this transaction as special counsel to the Agents only, except to the extent otherwise expressly stated in any legal opinion or any Loan Document. Each other party hereto will consult with its own legal counsel to the extent that it deems necessary in connection with the Loan Documents and the matters contemplated therein. In structuring, arranging or syndicating this Agreement, each Lender acknowledges and agrees that the Administrative Agent and the Lead Arranger may be an arranger, an agent or lender under other loans or other securities, and each Lender hereby waives any existing or future conflicts of interest associated with any of their roles in such other debt instruments.

Section 11.09 Administrative Agent 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 any Loan Party or any Subsidiary of any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agents and their respective agents and counsel and all other amounts due the Lenders and the Agents under Section 12.03) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Agents and, in the event that the Agents shall consent to the making of such payments directly to the Lenders, to pay to the Agents any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their agents and counsel, and any other amounts due the Agents under Section 12.03.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Secured Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 11.10 Authority of Collateral Agent to Release Collateral and Liens. Each Lender hereby authorizes the Collateral Agent to release any Collateral that is permitted to be sold or released pursuant to the terms of the Loan Documents. Each Lender hereby authorizes the Collateral Agent to execute and deliver to the Borrower, at the Borrower's sole cost and expense, any and all releases of Liens, termination statements, assignments or other documents reasonably requested by the Borrower in connection with any Disposition of Property to the extent such Disposition is permitted by the terms of Section 9.10 or is otherwise authorized by the terms of the Loan Documents.

Section 11.11 The Lead Arranger and Sustainability-Linked Loan Coordinator. The Lead Arranger and Sustainability-Linked Loan Coordinator shall not have any duties, responsibilities or liabilities under this Agreement and the other Loan Documents other than its duties, responsibilities and liabilities in its capacity as a Lender or Agent hereunder (to the extent that the Lead Arranger or the Sustainability-Linked Loan Coordinator is also a Lender or Agent hereunder).

Section 11.12 Acknowledgement of Lenders.

(a) Each Lender hereby agrees that (i) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "Payment") were erroneously transmitted to such Lender (whether or not known to such Lender), and demands the return of such Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (ii) to the extent permitted by applicable law, such Lender shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender under this Section 11.12 shall be conclusive, absent manifest error.

(b) Each Lender hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (i) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "Payment Notice") or (ii) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrower and each other Loan Party hereby agrees that (i) in the event an erroneous Payment (or portion thereof) are not recovered from any Lender that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount and (ii) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Secured Obligations owed by the Borrower or any other Loan Party.

(d) Each party's obligations under this Section 11.12 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Secured Obligations under any Loan Document.

Section 11.13 Credit Bidding. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Majority Lenders, to credit bid all or any portion of the Secured Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party or other Guarantor is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Majority Lenders on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid, (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Secured Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Majority Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Majority Lenders contained in Section 12.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Secured Obligations which were credit bid, interests, whether as equity, partnership interests, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of Secured Obligations credit bid by the acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Secured Parties pro rata with their original interest in such Secured Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Secured Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Secured Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in Section 11.13(ii), each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

Section 11.14 ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iii) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (i) Section 11.14(a)(i) is true with respect to a Lender or (ii) a Lender has provided another representation, warranty and covenant in accordance with Section 11.14(a)(iii), such Lender further (A) represents and warrants, as of the date such Person became a Lender party hereto, and (B) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 11.15 Sustainability Matters.

(a) Each party hereto hereby agrees that neither the Administrative Agent nor the Sustainability-Linked Loan Coordinator shall have any responsibility for (or liability in respect of) reviewing, auditing or otherwise evaluating any calculation by the Borrower of any Sustainability Rate Adjustment (or any of the data or computations that are part of or related to any such calculation) set forth in the Sustainability Certificate (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry).

(b) Each Lender (i) acknowledges and agrees that none of the Administrative Agent, the Lead Arranger nor the Sustainability-Linked Loan Coordinator acting in such capacities have made any assurances as to (A) whether the Loans hereunder meets such Lender's criteria or expectations with regard to environmental impact and sustainability performance and (B) whether any characteristics of the Loans hereunder, including the characteristics of the relevant key performance indicators to which the Borrower will link a potential margin step-up or step-down, including their environmental and sustainability criteria, meet any industry standards for sustainability-linked credit facilities and (ii) has performed its own independent investigation and analysis of the Loans hereunder and whether such Loans meets its own criteria or expectations with regard to environmental impact and/or sustainability performance.

ARTICLE XII
MISCELLANEOUS

Section 12.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to Section 12.01(b)), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by e-mail or similar electronic means, as follows:

(i) if to Parent, the Borrower or any other Loan Party, to it at the address, email address or telephone number specified on Schedule 1.01(a) hereto;

(ii) if to the Administrative Agent or the Collateral Agent, to it at the address, email address or telephone number specified on Schedule 1.01(a) hereto; and

(iii) if to any Lender, to it at the address, e-mail address or telephone number set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing Section 12.01(b)(i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both Section 12.01(b)(i) and Section 12.01(b)(ii), if such notice, e-mail or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) Any party hereto may change its address or e-mail address for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 12.02 Waivers; Amendments.

(a) No failure on the part of the Administrative Agent, the Collateral Agent or any Lender to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege, or any abandonment or discontinuance of steps to enforce such right, power or privilege, under any of the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any of the Loan Documents preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the Administrative Agent, the Collateral Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by Section 12.02(b), and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, the Collateral Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof nor any other Loan Document (other than the Fee Letter and as provided in Section 3.05) nor any provision thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Majority Lenders or by the Borrower and the Administrative Agent with the consent of the Majority Lenders with a copy of all amendments provided to the Administrative Agent; provided that no such agreement shall (i) increase the Commitment or the outstanding aggregate principal amount of the Loans of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees payable hereunder, or reduce any other Secured Obligations hereunder or under any other Loan Document, without the written consent of each Lender directly and adversely affected thereby, provided that the post-default rate set forth in Section 3.02(c) may be waived with the consent of the Majority Lenders, (iii) postpone the scheduled and fixed date of payment or prepayment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or any other Secured Obligations hereunder or under any other Loan Document, or reduce the amount of, waive or excuse any such payment, or postpone or extend the Maturity Date without the written consent of each Lender affected thereby, (iv) change Section 4.01(b) or Section 4.01(c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each directly and adversely Lender, (v) release all or substantially all of the Guarantors or release all or substantially all of the Collateral (other than as provided in Section 11.10), without the written consent of each Lender, (vi) modify the terms of Section 10.03(c) without the written consent of each Lender directly and adversely affected thereby, or (vii) change any of the provisions of this Section 12.02(b) or the definition of "Majority Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or under any other Loan Documents, without the written consent of each directly and adversely affected Lender; provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document without the prior written consent of such Agent. Notwithstanding the foregoing, (A) any Security Document may be supplemented to add additional collateral or join additional Persons as Loan Parties with the consent of the Collateral Agent, (B) the Borrower and the Administrative Agent may amend this Agreement or any other Loan Document without the consent of the Lenders in order to (i) correct, amend or cure any ambiguity, inconsistency or defect or correct any typographical error, omission or other manifest error in any Loan Document, or (ii) make administrative or operational changes or enhancements not adverse to the Lenders, (C) the Administrative Agent and the Borrower (or other applicable Loan Party) may enter into any amendment, modification or waiver of this Agreement or any other Loan Document or enter into any agreement or instrument to effect the granting, perfection, protection, expansion or enhancement of any Lien in any Collateral or Property to become Collateral to secure the Indebtedness for the benefit of the Lenders or as required by any Governmental Requirement to give effect to, protect or otherwise enhance the rights or benefits of any Lender under the Loan Documents without the consent of any Lender.

Section 12.03 Expenses, Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Agents and their Affiliates, including the reasonable and documented fees, charges and disbursements of counsel and other consultants for the Agents and their Affiliates, the reasonable travel, photocopy, mailing, courier, telephone and other similar expenses, and the cost of environmental audits and surveys and appraisals and all fees, in each case of the Agents and their Affiliates, in connection with the credit facility provided for herein, the preparation, negotiation, execution, delivery and administration (both before and after the execution hereof and including advice of counsel to the Agents as to the rights and duties of the Agents and the Lenders with respect thereto) of this Agreement and the other Loan Documents and any amendments, modifications or waivers of or consents related to the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket costs, expenses, assessments and other similar charges incurred by the Agents or any Lender in connection with any filing, registration, recording or perfection of any security interest contemplated by this Agreement or any Security Document or any other document referred to therein, (iii) all documented out-of-pocket expenses incurred by the Agents or any Lender, including the fees, charges and disbursements of any counsel or other consultants for the Agents or any Lender, in connection with the enforcement or protection of their rights in connection with this Agreement or any other Loan Document, including their rights under this Section 12.03, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans and (iv) all reasonable and documented fees and expenses associated with collateral monitoring (including field examination fees and out-of-pocket expenses) and collateral reviews and fees and expenses of other advisors and professional engaged by the Agents. For the avoidance of doubt, this Section 12.03(a) shall not apply with respect to any costs or expenses that are Taxes, as the indemnity and payment of Tax claims are governed exclusively by Section 5.03.

(b) The Borrower shall indemnify the Administrative Agent, the Collateral Agent, any sub-agent of the Agents, the Lead Arranger and each Lender, and each Related Party of any of the foregoing persons (each such person being called an "Indemnitee") against, and defend and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or the parties to any other Loan Document of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or by any other Loan Document or any action taken in connection with this Agreement, including, but not limited to, the payment of principal, interest and fees, (ii) the failure of any Loan Party or any Subsidiary to comply with the terms of any Loan Document, including this Agreement, or with any governmental requirement, (iii) any inaccuracy of any representation or any breach of any warranty or covenant of the Borrower or any Guarantor or any other Loan Party set forth in any of the Loan Documents or any instruments, documents or certifications delivered in connection therewith, (iv) any Loan or the use of the proceeds therefrom, (v) the operations of the business of Parent, the Borrower and their Subsidiaries, (vi) any assertion that the Lenders were not entitled to receive the proceeds received pursuant to the Security Documents, (vii) any Environmental Law to the extent applicable to Parent, the Borrower or any of their Subsidiaries, or in respect of their Properties, including as relating to the presence, generation, storage, Release, Threatened Release, use, transport, disposal, arrangement of disposal or treatment of Hazardous Materials on any of their Properties, (viii) the breach or non-compliance by Parent, the Borrower or any of their Subsidiaries with any Environmental Law applicable to Parent, the Borrower or any of their Subsidiaries, including in respect of their Properties, (ix) the past ownership by Parent, the Borrower or any of their Subsidiaries or any of their Properties or past activity on any of their Properties which, though lawful and fully permissible at the time, could result in present liability, (x) the presence, use, Release, storage, treatment, disposal, generation, Threatened Release, transport, arrangement for transport or arrangement for disposal of Hazardous Materials on or at any of the Properties owned or operated by Parent, the Borrower or any of their Subsidiaries or any actual or alleged presence or Release of Hazardous Materials on or from any Property owned or operated by Parent, the Borrower or any of their Subsidiaries, (xi) any liability arising under Environmental Laws to the extent related to Parent, the Borrower or any of their Subsidiaries, including in respect of their Properties, or (xii) any other environmental, health or safety condition in connection with the Loan Documents, or (xiii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or a Loan Party and regardless of whether any Indemnitee is a party thereto, and such indemnity shall extend to each Indemnitee notwithstanding the sole or concurrent negligence of every kind or character whatsoever, whether active or passive, whether an affirmative act or an omission, including all types of negligent conduct identified in the Restatement (Second) of Torts of one or more of the Indemnitees or by reason of strict liability imposed without fault on any one or more of the Indemnitees; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee; provided, further, this Section 12.03(b) shall not apply with respect to Taxes other than any Taxes that represent fees, losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Agents or the Lead Arranger under Section 12.03(a) or Section 12.03(b), but without affecting such payment obligations of the Borrower, each Lender severally agrees to pay to the Administrative Agent, the Collateral Agent or the Lead Arranger, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the Collateral Agent or the Lead Arranger in its capacity as such.

(d) To the extent permitted by applicable law, no party hereto shall assert, and each of Parent and the Borrower shall cause its Subsidiaries to not assert, and each party hereto hereby waives, and each of Parent and the Borrower hereby causes its Subsidiaries to waive, any claim against any other party hereto or any Related Party thereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions or any Loan or the use of the proceeds thereof (provided that the foregoing shall not limit the liability of any Loan Party to indemnify any Indemnitee pursuant to Section 12.03(b) for any such damages asserted against such Indemnitee).

(e) All amounts due under this Section 12.03 shall be payable not later than ten (10) Business Days after demand therefor.

Section 12.04 Assignments and Participations.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower or any other Loan Party without such consent shall be null and void), (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 12.04 and (iii) no Lender may assign to the Borrower or an Affiliate of the Borrower all or any portion of such Lender's rights and obligations under this Agreement or all or any portion of its Commitments or the Loans owing to it hereunder. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in Section 12.04(c)) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Subject to the conditions set forth in Section 12.04(b)(ii), any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of (x) the Administrative Agent and (y) so long as no Event of Default shall have occurred and be continuing, the Borrower; provided that no consent of the Administrative Agent or the Borrower shall be required for an assignment to an assignee that is a Lender (or an Affiliate or Approved Fund of a Lender) immediately prior to giving effect to such assignment; provided, further, that the Borrower shall be deemed to have consented to an assignment of all or a portion of the Commitments and Loans unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof.

(i) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans under the Facility, the amount of the Commitment of the assigning Lender under the Facility subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 unless each of the Borrower and the Administrative Agent otherwise consent;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 (which fee (x) shall not apply to an assignment to a Lender, an Affiliate of a Lender or an Approved Fund and (y) may be waived or reduced by the Administrative Agent in writing); and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and all documentation and other information with respect to the assignee that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(ii) Subject to Section 12.04(b)(iv) and the acceptance and recording thereof, from and after the recordation date of each Assignment and Assumption in the Register, the assignee thereunder shall be a party hereto (which, for the avoidance of doubt, shall be the date of recordation in the Register) and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 5.01, Section 5.02, Section 5.03 and Section 12.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 12.04(b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 12.04(c).

(iii) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, the Commitment of and principal amount of (and stated interest on) the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender for all purposes of this Agreement, notwithstanding notice or anything in any Loan Document to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent and any Lender, at any reasonable time and from time to time upon reasonable prior written notice. In connection with any changes to the Register, if necessary, the Administrative Agent will reflect the revisions on Annex I and forward a copy of such revised Annex I to the Borrower and each Lender.

(c) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and all documentation and other information with respect to the assignee that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in Section 12.04(b) and any written consent to such assignment required by Section 12.04(b), the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless and until it has been recorded in the Register as provided in this Section 12.04(b).

(i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it under the Facility); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and (D) the provisions of Section 12.04(b)(iv) shall apply as if the Participant were a Lender and the sale of the participation was an assignment. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 12.02(b) that affects such Participant. In addition such agreement must provide that the Participant be bound by the provisions of Section 12.03. The Borrower agrees that each Participant shall be entitled to the benefits of Section 5.01, Section 5.02 and Section 5.03 (subject to the requirements and limitations therein, including the requirements under Section 5.03(f) (it being understood that the documentation required under Section 5.03(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.04(b); provided that a Participant shall not be entitled to receive any greater payment under Section 5.01, Section 5.02 and Section 5.03 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 4.01(c) as though it were a Lender.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction over such Lender, and this Section 12.04(d) shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 12.05 Survival; Revival; Reinstatement.

(a) All covenants, agreements, representations and warranties made by the Loan Parties herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Collateral Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and so long as the Commitments have not expired or terminated. The provisions of Section 5.01, Section 5.02, Section 5.03, Article XI and Section 12.03 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement, any other Loan Document or any provision hereof or thereof.

(b) To the extent that any payments on the Secured Obligations or proceeds of any Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor-in-possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Administrative Agent's, the Collateral Agent's and the Lenders' Liens, security interests, rights, powers and remedies under this Agreement and each Loan Document shall continue in full force and effect. In such event, each Loan Document shall be automatically reinstated and the Borrower shall take such action as may be reasonably requested by the Administrative Agent, the Collateral Agent and the Lenders to effect such reinstatement.

Section 12.06 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

(b) The words "execution," "execute," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, Borrowing Requests, Interest Election Requests, amendments, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

(c) This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Agents constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. **THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES HERETO AND THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

(d) Except as provided in Section 6.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement as an attachment to an e-mail or other similar electronic means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 12.07 Severability. Any provision of this Agreement or any other Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 12.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to setoff and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations (of whatsoever kind) at any time owing by such Lender or Affiliate to or for the credit or the account of any Loan Party against any of and all the obligations of such Loan Party owed to such Lender now or hereafter existing under this Agreement or any other Loan Document, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations may be unmatured. The rights of each Lender under this Section 12.08 are in addition to other rights and remedies (including other rights of setoff) which such Lender or its Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 12.09 Governing Law; Jurisdiction; Consent To Service Of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THE LOAN DOCUMENTS SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREBY ACCEPTS FOR ITSELF AND (TO THE EXTENT PERMITTED BY LAW) IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

(c) EACH PARTY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT AT THE ADDRESS SPECIFIED IN SECTION 12.01 OR SUCH OTHER ADDRESS AS IS SPECIFIED PURSUANT TO SECTION 12.01 (OR ITS ASSIGNMENT AND ASSUMPTION), SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER SUCH COPIES ARE DEPOSITED IN THE MAIL. NOTHING HEREIN SHALL AFFECT THE RIGHT OF A PARTY OR ANY HOLDER OF A NOTE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANOTHER PARTY IN ANY OTHER JURISDICTION.

(d) EACH PARTY HEREBY (i) IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN; (ii) CERTIFIES THAT NO PARTY HERETO NOR ANY REPRESENTATIVE OR AGENT OF COUNSEL FOR ANY PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, OR IMPLIED THAT SUCH PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (iii) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT, THE LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 12.09.

Section 12.10 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 12.11 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement or any other Loan Document, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 12.11, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any Hedging Agreement relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 12.11 or (ii) becomes available to the Agents, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section 12.11, "Information" means all information received from any Loan Party relating to the Loan Parties and their Subsidiaries and their businesses, other than (A) any such information that is available to the Agents or any Lender on a nonconfidential basis prior to disclosure by any Loan Party and (B) information pertaining to this Agreement routinely used in marketing materials or provided by arrangers to data service providers, including league table providers, that serve the lending industry (it is understood, for avoidance of doubt, that the names of the Loan Parties, the amount, type, currency, interest rate and yield to maturity of the Loans, the effective date of the Credit Agreement and the role and title of such Lender is such type of information so routinely used or provided). Any Person required to maintain the confidentiality of Information as provided in this Section 12.11 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Borrower and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws. It is understood that any Lender and its Related Parties may place customary advertisements in financial and other news sources or on a home page or similar place for dissemination of information as it may choose, and circulate similar promotional materials, in each case, after the effectiveness of the Credit Agreement, including in the form of a "tombstone", which may include the Borrower's name, logo and a link to the Borrower's website.

Section 12.12 Interest Rate Limitation. It is the intention of the parties hereto that each Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby would be usurious as to any Lender under laws applicable to it (including the laws of the United States and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to such Lender notwithstanding the other provisions of this Agreement), then, in that event, notwithstanding anything to the contrary in any of the Loan Documents or any agreement entered into in connection with or as security for the Secured Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to any Lender that is contracted for, taken, reserved, charged or received by such Lender under any of the Loan Documents or agreements or otherwise in connection with the Loans shall under no circumstances exceed the maximum amount allowed by such applicable law, and any excess shall be canceled automatically and if theretofore paid shall be credited by such Lender on the principal amount of the Secured Obligations (or, to the extent that the principal amount of the Secured Obligations shall have been or would thereby be paid in full, refunded by such Lender to the Borrower); and (ii) in the event that the maturity of the Loans is accelerated by reason of an election of the holder thereof resulting from any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest under law applicable to any Lender may never include more than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall be canceled automatically by such Lender as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited by such Lender on the principal amount of the Secured Obligations (or, to the extent that the principal amount of the Secured Obligations shall have been or would thereby be paid in full, refunded by such Lender to the Borrower). All sums paid or agreed to be paid to any Lender for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to such Lender, be amortized, prorated, allocated and spread throughout the stated term of the Loans until payment in full so that the rate or amount of interest on account of any Loans hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (i) the amount of interest payable to any Lender on any date shall be computed at the Highest Lawful Rate applicable to such Lender pursuant to this Section 12.12 and (ii) in respect of any subsequent interest computation period the amount of interest otherwise payable to such Lender would be less than the amount of interest payable to such Lender computed at the Highest Lawful Rate applicable to such Lender, then, to the extent permitted by applicable law, the amount of interest payable to such Lender in respect of such subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to such Lender until the total amount of interest payable to such Lender shall equal the total amount of interest which would have been payable to such Lender if the total amount of interest had been computed without giving effect to this Section 12.12.

Section 12.13 EXCULPATION PROVISIONS. EACH OF THE PARTIES HERETO SPECIFICALLY AGREES THAT IT HAS A DUTY TO READ THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND AGREES THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF THE TERMS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS; THAT IT HAS IN FACT READ THIS AGREEMENT AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF THE TERMS, CONDITIONS AND EFFECTS OF THIS AGREEMENT; THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL OF ITS CHOICE THROUGHOUT THE NEGOTIATIONS PRECEDING ITS EXECUTION OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS; AND HAS RECEIVED THE ADVICE OF ITS ATTORNEY IN ENTERING INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS; AND THAT IT RECOGNIZES THAT CERTAIN OF THE TERMS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS RESULT IN ONE PARTY ASSUMING THE LIABILITY INHERENT IN SOME ASPECTS OF THE TRANSACTION AND RELIEVING THE OTHER PARTY OF ITS RESPONSIBILITY FOR SUCH LIABILITY. EACH PARTY HERETO AGREES AND COVENANTS THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY EXCULPATORY PROVISION OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT THE PROVISION IS NOT “CONSPICUOUS.”

Section 12.14 No Third Party Beneficiaries. This Agreement, the other Loan Documents, and the agreement of the Lenders to make Loans hereunder are solely for the benefit of the Loan Parties, and no other Person (including any obligor, contractor, subcontractor, supplier or materialsman) shall have any rights, claims, remedies or privileges hereunder or under any other Loan Document against the Agents or any Lender for any reason whatsoever. There are no third party beneficiaries.

Section 12.15 USA PATRIOT ACT NOTICE. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Loan Parties and other information that will allow such Lender to identify the Loan Parties in accordance with the USA PATRIOT Act.

Section 12.16 Releases.

(a) Release Upon Payment in Full. Upon Payment in Full, the Administrative Agent, at the written request and expense of the Borrower, will promptly release, reassign and transfer the Collateral to the Loan Parties pursuant to a customary payoff letter.

(b) Further Assurances. If any of the Collateral shall be sold, transferred or otherwise disposed of by any Loan Party in a transaction permitted by the Loan Documents and such Collateral shall no longer constitute or be required to be Collateral under the Loan Documents, then the Collateral Agent, at the request and sole expense of the Borrower, shall promptly execute and deliver to the Borrower or such Loan Party all releases or other documents reasonably necessary or desirable for the release of the Liens created by the applicable Security Document on such Collateral; provided that the Borrower shall have delivered to the Administrative Agent and the Collateral Agent, at least five (5) Business Days prior to the date of the proposed release (or such other time period as the Administrative Agent may agree), a written request for release identifying the Loan Party, together with a certification by the Borrower stating (x) that such transaction is in compliance with this Agreement and the other Loan Documents and (y) no Collateral other than the Collateral required to be released is being released.

Section 12.17 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability; and

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any applicable Resolution Authority.

[SIGNATURES BEGIN NEXT PAGE]

The parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

BORROWER: **CLEAN ENERGY**

By: /s/ Robert M. Vreeland
Name: Robert M. Vreeland
Title: Chief Financial Officer

PARENT: **CLEAN ENERGY FUELS CORP.**

By: /s/ Robert M. Vreeland
Name: Robert M. Vreeland
Title: Chief Financial Officer

[*Signature Page to Credit Agreement*]

ADMINISTRATIVE AGENT AND COLLATERAL AGENT:

RIVERSTONE CREDIT MANAGEMENT LLC

By: Riverstone Equity Partners LP, its sole member
By: Riverstone Holdings LLC, its general partner

By: /s/ Daniel Flannery
Name: Daniel Flannery
Title: Managing Director

[*Signature Page to Credit Agreement*]

LENDERS:

RIVERSTONE CREDIT PARTNERS II – DIRECT, L.P.

By: RCP II F2 GP, L.P., its general partner
By: RCP II F1 GP, LLC, its general partner

By: /s/ Daniel Flannery
Name: Daniel Flannery
Title: Managing Director

RIVERSTONE INTERNATIONAL CREDIT - DIRECT, L.P.

By: Riverstone Credit Opportunities Income Partners – Direct L.L.C., its general partner
By: RIC F1 GP, L.L.C., its general partner

By: /s/ Daniel Flannery
Name: Daniel Flannery
Title: Managing Director

RCP II N STRATEGIC CREDIT PARTNERS - DIRECT, L.P.

By: RCP II F2 GP, L.P., its general partner
By: RCP II F1 GP, LLC, its general partner

By: /s/ Daniel Flannery
Name: Daniel Flannery
Title: Managing Director

Exhibit 10.2

Execution Version

GUARANTEE AND COLLATERAL AGREEMENT

made by

CLEAN ENERGY,

CLEAN ENERGY FUELS CORP.,

and each of the other Grantors (as defined herein)

in favor of

RIVERSTONE CREDIT MANAGEMENT LLC
as Collateral Agent

Dated as of December 22, 2022

Table of Contents

This **GUARANTEE AND COLLATERAL AGREEMENT**, dated as of December 22, 2022, is made by CLEAN ENERGY, a California corporation (the "Borrower"), CLEAN ENERGY FUELS CORP., a Delaware corporation ("Parent"), and each of the other signatories hereto other than the Collateral Agent (the Borrower, Parent and each of the other signatories hereto other than the Collateral Agent, the "Grantors"), in favor of RIVERSTONE CREDIT MANAGEMENT LLC, as collateral agent (in such capacity, together with its successors and permitted assigns in such capacity, the "Collateral Agent") for the ratable benefit of the Secured Parties, including the banks and other financial institutions and entities (the "Lenders") from time to time party to the Senior Secured First Lien Term Loan Credit Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, Parent, the Lenders from time to time party thereto, Riverstone Credit Management LLC, as Administrative Agent and Collateral Agent, and the other parties party thereto.

W I T N E S S E T H:

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth in the Credit Agreement;

WHEREAS, the Borrower is a member of an affiliated group of companies that includes Parent and each other Grantor;

WHEREAS, Parent, the Borrower and the other Grantors are engaged in related businesses, and each Grantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective extensions of credit to the Borrower under the Credit Agreement that the Grantors shall have executed and delivered this Agreement to the Collateral Agent for the benefit of the Secured Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Agents and the Lenders to enter into the Credit Agreement and to induce the Lenders to make the extensions of credit to the Borrower thereunder, each Grantor hereby agrees with the Collateral Agent, for the ratable benefit of the Secured Parties, as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions.

(a) Capitalized terms used in this Agreement (including in the preamble and recitals hereto) and not otherwise defined herein shall have the meanings specified in the Credit Agreement, and the following terms as well as all uncapitalized terms which are defined in the UCC (whether or not capitalized or uncapitalized in the same manner therein) on the date hereof are used herein as so defined: Accounts, Certificated Security, Chattel Paper, Commercial Tort Claims, Commodity Accounts, Deposit Accounts, Documents, Electronic Chattel Paper, Equipment, Fixtures, General Intangibles, Goods, Instruments, Inventory, Letter-of-Credit Rights, Payment Intangibles, Proceeds, Securities, Securities Accounts, Supporting Obligations, Tangible Chattel Paper and Uncertificated Security; provided that, to the extent any such term is defined differently in different Articles of the UCC, the definition of such term contained in Article 9 of the UCC shall govern.

(b) In addition to the terms defined in the Credit Agreement, the following terms shall have the following meanings:

"Account Debtor" means a Person (other than any Grantor) obligated on an Account, Chattel Paper, or General Intangible.

"Acknowledgement and Consent" means an Acknowledgement and Consent substantially in the form of Annex I.

"Agreement" means this Guarantee and Collateral Agreement.

"Assigned Agreements" means all agreements, contracts and documents, including each Material Contract to which any Grantor is a party (including all exhibits and schedules thereto), as each such agreement, contract and document may be amended, supplemented or modified and in effect from time to time, including (a) all rights of such Grantor to receive moneys due and to become due under or pursuant to such agreements, contracts and documents, (b) all rights of such Grantor to receive proceeds of any insurance, bond, indemnity, warranty, letter of credit or guaranty with respect to such agreements, contracts and documents, (c) all claims of such Grantor for damages arising out of or for breach of or default under such agreements, contracts and documents, (d) all rights of such Grantor to all other amounts from time to time paid or payable under or in connection with any of the foregoing agreements, contracts and documents, and (e) all rights of such Grantor to terminate, amend, supplement, modify or waive performance under such agreements, contracts or documents, to perform thereunder and to compel performance and otherwise to exercise all remedies thereunder.

"Assumption Agreement" means an Assumption Agreement substantially in the form of Annex II.

"Borrower" has the meaning assigned to such term in the preamble hereto.

"Collateral" has the meaning assigned to such term in Section 3.01.

"Collateral Agent" has the meaning assigned to such term in the preamble hereto.

"Copyrights" means (a) all copyrights and works protectable by copyright arising under the laws of the United States, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished (including those listed in Schedule 8 hereto), all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office or any foreign counterpart thereof (including those listed in Schedule 8 hereto), and (b) the right to obtain all extensions and renewals thereof.

"Copyright License" means any written agreement now or hereafter in effect, providing for the grant to or by any Grantor, of any right in, to or under any Copyright, including the grant of any such rights to copy, publicly perform, display, create derivative works, distribute, and otherwise exploit any Copyright in any form or medium (including those licenses granting any Grantor exclusive rights in or to any registered Copyright listed in Schedule 8 hereto), and all rights under any such agreement.

"Credit Agreement" has the meaning assigned to such term in the preamble hereto.

"Excluded Asset" has the meaning assigned to such term in Section 3.01.

"Excluded Equity Interest" means (a) Equity Interests of any Person (other than a wholly-owned Subsidiary of a Grantor) acquired by a Grantor after the Closing Date to the extent the pledge thereof to Collateral Agent is prohibited by such Person's Organizational Documents and such prohibition (i) existed at the time such Person was acquired and (ii) was not created in anticipation or contemplation thereof, (b) any Equity Interest if, to the extent and for so long as the pledge of such Equity Interest hereunder is prohibited by any applicable Governmental Requirement (other than to the extent that any such prohibition would be rendered ineffective pursuant to the UCC or any other applicable requirements of law), provided that such equity interest shall cease to be an Excluded Equity Interest at such time as such prohibition ceases to be in effect, (c) Equity Interests of a Foreign Subsidiary entitled to vote (within the meaning of Treasury Regulation Section 1.956-2(c)(2)) in excess of 65% of the issued and outstanding Equity Interests of such Foreign Subsidiary entitled to vote if the pledge of greater than 65% of such Equity Interests would be likely to result in material adverse tax consequences to the Loan Parties and their Subsidiaries, taken as a whole and (d) "margin stock" (within the meaning of Regulation U).

"Grantor Claims" has the meaning assigned to such term in Section 9.01.

"Grantors" has the meaning assigned to such term in the preamble hereto.

"Guarantor Obligations" means, with respect to any Guarantor, all obligations and liabilities of such Guarantor which may arise under or in connection with this Agreement (including Article II), whether on account of guarantee obligations, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including all fees and disbursements of counsel to the Collateral Agent or to the Lenders that are required to be paid by such Guarantor pursuant to the terms of this Agreement).

"Guarantors" means the collective reference to each Grantor; provided that each Grantor shall be considered a Guarantor only with respect to the Primary Obligations of any other Loan Party.

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks, the Trademark Licenses, trade secrets, domain names, confidential or proprietary technical and business information, methods, processes, know how or other data or information, software and databases, all modifications, derivatives, additions and improvements thereon, and all embodiments or fixations thereof and applications therefor, and related documentation, registrations and franchises, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive Proceeds therefrom.

"Intercompany Notes" means any promissory note evidencing loans made by any Grantor to any other Grantor.

"Investment Property" means, collectively, (a) all "investment property" as such term is defined in Section 9-102(a)(49) of the UCC, (b) all "financial assets" as such term is defined Section 8-102(a)(9) of the UCC, and (c) whether or not constituting "investment property" as so defined, all Pledged Notes and all Pledged Securities.

"Issuers" means, collectively, each issuer of a Pledged Security.

"Lenders" has the meaning assigned to such term in the preamble hereto.

"Parent" has the meaning assigned to such term in the preamble hereto.

"Patents" means (a) all letters patent of the United States, any other country or any political subdivision thereof, all reissues, reexaminations and extensions, including any of the foregoing referred to in Schedule 8 hereto, (b) all applications for letters patent of the United States or any other country and all divisionals, continuations and continuations-in-part thereof, including any of the foregoing referred to in Schedule 8 hereto, and (c) all inventions and improvements described and claimed in any of the foregoing.

"Patent License" means any written agreement now or hereafter in effect, providing for the grant of any right in, to or under any Patent to or by any Grantor, including any right to make, have made, use, sell, offer for sale or import any invention covered in whole or in part by a Patent, or practice any method or process claimed by a Patent (including those licenses granting any Grantor exclusive rights in or to any registered United States Patent listed in Schedule 8 hereto), and all rights under any such agreement.

"Patent, Trademark and Copyright Security Agreements" means each patent security agreement, trademark security agreement and copyright security agreement, in substantially the form attached as Exhibit A hereto, or otherwise in a form reasonably acceptable to the Collateral Agent, each as executed and delivered by the applicable Grantor in favor of the Collateral Agent, for the benefit of the Secured Parties.

"Pledged Notes" means all promissory notes listed on Schedule 2, together with all Intercompany Notes at any time issued to any Grantor and all other promissory notes and any other instruments evidencing Indebtedness issued to or held or owned by any Grantor while this Agreement is in effect.

"Pledged Securities" means (a) the Equity Interests described or referred to in Schedule 2, together with any other Equity Interests of any Person and any other shares, stock certificates, options, interests or rights of any nature whatsoever in respect of such Equity Interests that may be issued or granted to, or held or acquired by, any Grantor while this Agreement is in effect (other than Excluded Equity Interests) and (b) (i) the certificates or instruments, if any, representing such Equity Interests, (ii) all right, title and interest of any Grantor (x) as a shareholder or member to participate in the operation or management of such Person and (y) to all dividends and distributions (cash, stock or otherwise and including during continuance of or on account of liquidation of any Person), cash, instruments, rights to subscribe, purchase or sell and all other rights and property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Interests, (iii) all replacements, additions to and substitutions for any of the property referred to in this definition, including claims against third parties, (iv) the proceeds, interest, profits and other income of or on any of the property referred to in this definition and (v) all books and records relating to any of the property referred to in this definition.

"Post-Default Rate" means the per annum rate of interest provided for in Section 3.02(c) of the Credit Agreement, but in no event to exceed the Highest Lawful Rate.

"Primary Obligations" means, with respect to any Loan Party, (a) any and all amounts owing or to be owing (including interest accruing at any Post-Default Rate and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, any other Loan Party or any of their Subsidiaries, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) by such Loan Party (whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising) to any Agent or any Lender or other Secured Party under any Loan Document or paid on behalf of any Loan Party or any of their Subsidiaries by any Agent, any other Secured Party or any of their Affiliates and (b) all renewals, restatements, extensions and/or rearrangements of any of the above. Without limitation of the foregoing, the term "Primary Obligations" shall include the unpaid principal (including any amount owed in respect of a Specified Event) or premium (including, with respect to the Borrower, any applicable Call Premium) of and interest on the Loans (including, without limitation, interest accruing at the then applicable rate provided in the Credit Agreement after the maturity of the Loans and interest accruing at the then applicable rate provided in the Credit Agreement after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to Parent, the Borrower, any other Loan Party or any of their Subsidiaries, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), reimbursement obligations and unpaid amounts, fees, expenses, indemnities, costs, and all other obligations and liabilities of every nature of such Loan Party, whether absolute or contingent, due or to become due, now existing or hereafter arising under the Credit Agreement and the other Loan Documents.

"RFS" means the Renewable Fuel Standard of the United States Environmental Protection Agency in accordance with according to the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007.

"Secured Agreement" means the Credit Agreement, this Agreement, any other Security Document, any other Loan Document and any other instrument or agreement giving rise to Secured Obligations.

"Secured Obligations" means, with respect to any Grantor, the collective reference to its Primary Obligations and Guarantor Obligations.

"Trademarks" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers (whether registered or unregistered), and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, or otherwise, and all common-law rights related thereto, including any of the foregoing referred to in Schedule 8 hereof, and (b) the right to obtain all extensions and renewals thereof.

"Trademark License" means any written agreement now or hereafter in effect, providing for the grant of any right in, to or under any Trademark to or by any Grantor, including any right to use any Trademark (including those licenses granting any Grantor exclusive rights in or to any registered Trademark listed in Schedule 8 hereto), and all rights under any such agreement.

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

Section 1.02 Other Definitional Provisions; References. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", and the word "or" is not exclusive. The word "will" shall be construed to have the same meaning and effect as the word "shall". The use of the words "repay" and "prepay" and the words "repayment" and "prepayment" herein shall each have identical meanings hereunder. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in the Secured Agreements), (b) except as otherwise provided herein, any reference herein to any law shall be construed as referring to such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to the restrictions contained in the Secured Agreements), (d) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) with respect to the determination of any time period, the word "from" means "from and including" and the word "to" means "to and including", (f) unless otherwise specified, any reference herein to Articles, Sections, Annexes, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Annexes, Exhibits and Schedules to, this Agreement, (g) any reference to amounts "deposited" into or "on deposit" in any account shall be construed to include any cash equivalents or other amounts credited to such account, (h) the term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (i) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (j) all references to currencies and to amounts payable hereunder and under the other Loan Documents shall be to United States dollars. The use of the phrase "subject to" as used in connection with Excepted Liens or otherwise and the permitted existence of any Excepted Liens or any other Liens shall not be interpreted to expressly or impliedly subordinate any Liens granted in favor of the Collateral Agent and the other Secured Parties as there is no intention to subordinate the Liens granted in favor of the Collateral Agent and the other Secured Parties. No provision of this Agreement or any other Secured Agreement shall be interpreted or construed against any Person solely because such Person or its legal representative drafted such provision.

ARTICLE II
GUARANTEE

Section 2.01 Guarantee.

(a) Each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to the Collateral Agent, for the ratable benefit of the Secured Parties and each of their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by the Loan Parties when due (whether at the stated maturity, by acceleration or otherwise) of the Primary Obligations. This is a guarantee of payment and performance when due and not of collection, and the liability of each Guarantor is primary and not secondary.

(b) Anything herein or in any other Secured Agreement to the contrary notwithstanding, the maximum liability of each Guarantor (other than the Borrower) hereunder and under the other Secured Agreements shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable federal and state laws relating to the insolvency of debtors (after giving effect to the right of contribution established in Section 2.02).

(c) Each Guarantor agrees that the Primary Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing the guarantee contained in this Article II or affecting the rights and remedies of the Collateral Agent or any other Secured Party hereunder.

(d) Each Guarantor agrees that if the maturity of any of the Primary Obligations is accelerated by bankruptcy or otherwise, such maturity shall also be deemed accelerated for the purpose of this guarantee without demand or notice to such Guarantor. The guarantee contained in this Article II shall remain in full force and effect until Payment in Full, notwithstanding that from time to time during the term of the Credit Agreement no Primary Obligations may be outstanding.

(e) No payment made by the Borrower, any other Loan Party with Primary Obligations, any of the Guarantors, any other guarantor or any other Person or received or collected by the Collateral Agent or any other Secured Party from the Borrower, any other Loan Party with Primary Obligations, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of any Primary Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of any Primary Obligations or any payment received or collected from such Guarantor in respect of any Primary Obligations), remain liable for the Primary Obligations up to the maximum liability of such Guarantor hereunder until Payment in Full.

Section 2.02 Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder which has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 4.02. The provisions of this Section 2.02 shall in no respect limit the obligations and liabilities of any Guarantor to the Collateral Agent and the Lenders, and each Guarantor shall remain liable to the Collateral Agent and the other Secured Parties for the full amount guaranteed by such Guarantor hereunder.

Section 2.03 Payments. Each Guarantor hereby agrees and guarantees that payments hereunder will be paid to the Collateral Agent without set-off or counterclaim in dollars that constitute immediately available funds at the principal office of the Collateral Agent specified pursuant to the Credit Agreement.

Section 2.04 Guarantee Absolute and Unconditional. Each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Primary Obligations and notice of or proof of reliance by the Collateral Agent or any other Secured Party upon the guarantee contained in this Article II or acceptance of the guarantee contained in this Article II; the Primary Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Article II; and all dealings between the Loan Parties, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Article II. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon the Borrower, any other Loan Party with Primary Obligations or any of the Guarantors with respect to the Primary Obligations. Each Guarantor understands and agrees that the guarantee contained in this Article II shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity or enforceability of the Credit Agreement or any other Secured Agreement, any of the Primary Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Collateral Agent or any other Secured Party, (b) any defense, set-off or counterclaim (other than a defense of payment or performance, including the defense that Payment in Full has occurred) which may at any time be available to or be asserted by the Borrower, any other Loan Party or any other Person against the Collateral Agent or any other Secured Party, or (c) any other circumstance whatsoever (with or without notice to or knowledge of the Borrower, any other Loan Party with Primary Obligations or such Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of the Loan Parties for the Primary Obligations, or of such Guarantor under the guarantee contained in this Article II, in bankruptcy or in any other instance. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against the Borrower, any other Loan Party with Primary Obligations, any other Guarantor or any other Person or against any collateral security or guarantee for the Primary Obligations or any right of offset with respect thereto, and any failure by the Collateral Agent or any other Secured Party to make any such demand, to pursue such other rights or remedies or to collect any payments from the Borrower, any other Loan Party with Primary Obligations, any other Guarantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower, any other Loan Party with Primary Obligations, any other Guarantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Collateral Agent or any other Secured Party against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

Section 2.05 Reinstatement. The obligations of each Grantor under this Agreement (including with respect to the guarantee contained in Article II and the provision of collateral herein) shall continue to be effective, or be reinstated, as the case may be, if at any time, payment, or any part thereof, of any of the Primary Obligations is rescinded or must otherwise be restored or returned by the Collateral Agent or any other Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Loan Party, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any other Loan Party or any substantial part of its property, or otherwise, all as though such payments had not been made.

ARTICLE III
GRANT OF SECURITY INTEREST

Section 3.01 Grant of Security Interest. Each Grantor hereby pledges, collaterally assigns and transfers to the Collateral Agent, and grants to the Collateral Agent, for the ratable benefit of the Secured Parties, a security interest in, all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence (collectively, the "Collateral"), for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of such Grantor's Secured Obligations:

(1) all Accounts;

(2) all Chattel Paper (whether Tangible Chattel Paper or Electronic Chattel Paper);

(3) all Commercial Tort Claims set forth on Schedule 6;

(4) all Deposit Accounts, all Commodity Accounts and all Securities Accounts;

(5) all Documents (including title documents with respect to Titled Vehicles of Significance);

(6) all General Intangibles;

(7) all Goods (including all Inventory, Equipment and Fixtures);

(8) all Instruments;

(9) all Inventory;

(10) all Investment Property;

(11) all cash;

(12) all letters of credit and Letter-of-Credit Rights (whether or not the letter of credit is evidenced by a writing);

(13) all Pledged Securities and all Pledged Notes;

(14) all Supporting Obligations;

(15) all Fixtures;

(16) all Intellectual Property;

(17) to the extent not otherwise included, all Environmental Credits;

(18) all books and records pertaining to the Collateral;

(19) all Assigned Agreements;

(20) to the extent not otherwise included, any other property insofar as it consists of personal property of any kind or character defined in and subject to the UCC; and

(21) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing and all collateral security, income, royalties and other payments now or hereafter due and payable with respect to, and guarantees and Supporting Obligations relating to, any and all of the Collateral and, to the extent not otherwise included, all payments of insurance (whether or not the Collateral Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral, all other claims, including all cash, guarantees and other Supporting Obligations given with respect to any of the foregoing.

Notwithstanding anything herein to the contrary, in no event shall the Collateral include, and no Grantor shall be deemed to have granted a security interest in (a) any "intent to use" Trademark applications for which a statement of use has not been filed (but only until such statement is filed), solely to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of, or void, any such application or registration that issues from such intent-to-use application under United States law, (b) any of such Grantor's rights or interests in or under any Property to the extent that, and only for so long as, such grant of a security interest (x) is prohibited by or constitutes a violation of any law, rule or regulation applies to such Grantor or (y) constitutes a breach or default under or results in the termination of or requires any consent of a Person who is not an Affiliate not obtained under, any lease, license, agreement or other contract, in each case, to extent such Property is the direct subject of such lease, license, agreement or other contract; provided that the foregoing exclusions shall not apply if (i) such prohibition has been waived or such other party has otherwise consented to the creation hereunder of a security interest in such asset or a consent of such other Person is required under the terms of the Credit Agreement or (ii) such prohibition, consent or the term in such lease, license, agreement or other contract, or providing for such prohibition breach, default or termination or requiring such consent is ineffective or would be rendered ineffective under any Governmental Requirement, including pursuant to Section 9-406, 9-407 or 9-408 of Article 9 of the UCC; provided, further, that it is understood for avoidance of doubt that immediately upon any of the foregoing becoming or being rendered ineffective or any such prohibition, requirement for consent or term lapsing or termination or such consent being obtained, the applicable Grantor shall immediately be deemed to have granted a Lien in all its rights, title and interests in and to such Property, (c) any Excluded Equity Interests, (d) any Excluded Accounts or (e) those other assets of a Grantor with respect to which the Collateral Agent and the Borrower reasonably determine that the burdens, costs or consequences of obtaining a Lien on such assets are excessive in relation to the value to be obtained by the Secured Parties (collectively, "Excluded Assets"); provided, however, "Excluded Assets" shall not include any right to receive proceeds from the sale or other disposition of Excluded Assets or any Proceeds, products, substitutes or replacements of any Excluded Assets (unless such Proceeds, products, substitutes or replacements independently constitute Excluded Assets). For the avoidance of doubt, it is understood and agreed that Environmental Credits do not constitute Excluded Assets.

Section 3.02 Transfer of Pledged Securities. All certificates and instruments representing or evidencing the Pledged Securities shall be promptly delivered to and held pursuant hereto by the Collateral Agent or a Person designated by the Collateral Agent and, in the case of an instrument or certificate in registered form, shall be duly indorsed to the Collateral Agent or in blank by an effective indorsement (whether on the certificate or instrument or on a separate writing), and accompanied by any required transfer tax stamps to effect the pledge of the Pledged Securities to the Collateral Agent. Each Grantor shall take all such further action as necessary or as may be reasonably requested by the Collateral Agent, to permit the Collateral Agent to be a "protected purchaser" to the extent of its security interest as provided in Section 8-303 of the UCC (if the Collateral Agent otherwise qualifies as a protected purchaser).

Section 3.03 Grantors Remain Liable . Notwithstanding anything herein to the contrary, (a) each Grantor shall remain liable for all obligations under and in respect of the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Collateral Agent or any other Secured Party and (b) each Grantor shall remain liable under each of the contracts and agreements included in the Collateral, including the Assigned Agreements and under each of the Accounts, Chattel Paper and Payment Intangibles included in the Collateral, to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any such contract or agreement or any agreement giving rise to each such Account, Chattel Paper or Payment Intangible, and neither the Collateral Agent nor any other Secured Party shall have any obligation or liability under any such contracts and agreements or any such Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Collateral Agent or any such other Secured Party of any payment relating to such contracts and agreements or such Account, Chattel Paper or Payment Intangible, pursuant hereto, nor shall the Collateral Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any such contracts and agreements or Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any such contracts and agreements or Account, Chattel Paper or Payment Intangible (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times. The exercise by the Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, including the Assigned Agreements.

Section 3.04 Pledged Securities. The granting of the foregoing security interest does not make the Collateral Agent or any other Secured Party a successor to Grantor as a partner or member in any Issuer that is a partnership, limited partnership or limited liability company, as applicable, and neither the Collateral Agent, any other Secured Party, nor any of their respective successors or assigns hereunder shall be deemed to have become a partner or member in any Issuer, as applicable, by accepting this Agreement or exercising any right granted herein unless and until such time, if any, when any such Person expressly becomes a partner or member in any Issuer, as applicable, and complies with any applicable transfer provisions set forth in the charter or organizational documents relating to an applicable Pledged Security after a foreclosure thereon; provided that the foregoing shall not limit or restrict in any way the rights and remedies of the Collateral Agent and the other Secured Parties otherwise set forth herein and in the other Loan Documents, including Section 7.01.

ARTICLE IV
ACKNOWLEDGMENTS, WAIVERS AND CONSENTS

Section 4.01 Acknowledgments, Waivers and Consents.

(a) The Borrower is a member of an affiliated group of companies that includes each Loan Party. Each Guarantor acknowledges and agrees that Parent, the Borrower and the Loan Parties are engaged in related business, and each Guarantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement and from the Borrower and the other Loan Parties entering into the other Secured Agreements and from the ongoing business of Parent, the Borrower and their Subsidiaries.

(b) Each Grantor acknowledges and agrees that the obligations undertaken by it under this Agreement involve the guarantee of, and the provision of collateral security for, the Secured Obligations, which obligations consist, in part, of the obligations of Persons other than such Grantor and that such Grantor's guarantee and provision of collateral security for the Secured Obligations are absolute, irrevocable and unconditional under any and all circumstances. In full recognition and furtherance of the foregoing, each Grantor understands and agrees, to the fullest extent permitted under applicable law and except as may otherwise be expressly and specifically provided herein, that each Grantor shall remain obligated hereunder (including, with respect to the guarantee made by such Grantor hereby and the collateral security provided by such Grantor herein) and the enforceability and effectiveness of this Agreement and the liability of such Grantor, and the rights, remedies, powers and privileges of the Collateral Agent and the other Secured Parties under this Agreement and the other Secured Agreements shall not be affected, limited, reduced, discharged or terminated in any way:

(i) notwithstanding that, without any reservation of rights against any Grantor and without notice (except as required by applicable law) to or further assent by any Grantor, (A) any demand for payment of any of the Secured Obligations made by the Collateral Agent or any other Secured Party may be rescinded by the Collateral Agent or such other Secured Party and any of the Secured Obligations continued; (B) the Secured Obligations, the liability of any other Person upon or for any part thereof or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, increased, extended, amended, modified, accelerated, compromised, waived, surrendered or released by, or any indulgence or forbearance in respect thereof granted by, the Collateral Agent or any other Secured Party; (C) the Secured Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Collateral Agent (or the Majority Lenders, all Lenders or other requisite Secured Parties, as the case may be) may deem advisable from time to time; (D) any Grantor, any other Loan Party or any other Person may from time to time accept or enter into new or additional agreements, security documents, guarantees or other instruments in addition to, in exchange for or relative to, any Secured Agreement, all or any part of the Secured Obligations or any Collateral now or in the future serving as security for the Secured Obligations; (E) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of the Secured Obligations may be sold, exchanged, waived, surrendered or released; and (F) any other event shall occur which constitutes a defense or release of sureties generally; and

(ii) without regard to, and each Grantor hereby expressly waives to the fullest extent permitted by law any defense now or in the future arising by reason of, (A) the illegality, invalidity or unenforceability of the Credit Agreement, any other Secured Agreement, any of the Secured Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Collateral Agent or any other Secured Party; (B) any defense, set-off or counterclaim (other than a defense of payment or performance, including the defense that Payment in Full has occurred) which may at any time be available to or be asserted by any Grantor or any other Person against the Collateral Agent or any other Secured Party; (C) the insolvency, bankruptcy arrangement, reorganization, adjustment, composition, liquidation, disability, dissolution or lack of power of any Grantor, any other Loan Party or any other Person at any time liable for the payment of all or part of the Secured Obligations or the failure of the Collateral Agent or any other Secured Party to file or enforce a claim in bankruptcy or other proceeding with respect to any Person; or any sale, lease or transfer of any or all of the assets of any Grantor or any other Loan Party, or any changes in the shareholders of any Grantor or any other Loan Party; (D) the fact that any Collateral or Lien contemplated or intended to be given, created or granted as security for the repayment of the Secured Obligations shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other Lien, it being recognized and agreed by each of the Grantors that it is not entering into this Agreement in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the Collateral for the Secured Obligations; (E) any failure of the Collateral Agent or any other Secured Party to marshal assets in favor of any Grantor, any other Loan Party or any other Person, to exhaust any collateral for all or any part of the Secured Obligations, to pursue or exhaust any right, remedy, power or privilege it may have against any Grantor, any other Loan Party or any other Person or to take any action whatsoever to mitigate or reduce any Grantor's liability under this Agreement or any other Secured Agreement; (F) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (G) the possibility that the Secured Obligations may at any time and from time to time exceed the aggregate liability of such Grantor under this Agreement; or (H) any other circumstance or act whatsoever, including any act or omission of the type described in Section 4.01(b)(i) (with or without notice to or knowledge of any Grantor), which constitutes, or might be construed to constitute, an equitable or legal discharge or defense of any Grantor for the Secured Obligations, or of such Grantor under the guarantee contained in Article II or with respect to the collateral security provided by such Grantor herein, or which might be available to a surety or guarantor, in bankruptcy or in any other instance.

(c) Each Grantor hereby waives to the extent permitted by law: (i) except as expressly provided otherwise in any Secured Agreement, all notices to such Grantor, or to any other Person, including but not limited to, notices of the acceptance of this Agreement, the guarantee contained in Article II or the provision of collateral security provided herein, or the creation, renewal, increase, extension, modification, accrual of any Secured Obligations, or notice of or proof of reliance by the Collateral Agent or any other Secured Party upon the guarantee contained in Article II or upon the collateral security provided herein, or of default in the payment or performance of any of the Secured Obligations owed to the Collateral Agent or any other Secured Party and enforcement of any right or remedy with respect thereto; or notice of any other matters relating thereto; the Secured Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in Article II and the collateral security provided herein and no notice of creation of the Secured Obligations or any extension of credit already or hereafter contracted by or extended to the Borrower need be given to any Grantor; and all dealings between the Borrower and any of the Grantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in Article II and on the collateral security provided in this Agreement; (ii) diligence and demand of payment, presentment, protest, dishonor and notice of dishonor; (iii) any statute of limitations affecting any Grantor's liability hereunder or the enforcement thereof; (iv) all rights of revocation with respect to the Secured Obligations, the guarantee contained in Article II and the provision of collateral security herein; and (v) all principles or provisions of law which conflict with the terms of this Agreement and which can, as a matter of law, be waived.

(d) When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Grantor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, join or make a similar demand on or otherwise pursue or exhaust such rights and remedies as it may have against the Borrower, any other Grantor, any other Loan Party or any other Person or against any collateral security or guarantee for the Secured Obligations or any right of offset with respect thereto, and any failure by the Collateral Agent or any other Secured Party to make any such demand, to pursue such other rights or remedies or to collect any payments from the Borrower, any other Grantor, any other Loan Party or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower, any Grantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Grantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Collateral Agent or any other Secured Party against any Grantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Secured Obligations or for the guarantee contained in Article II or any property subject thereto.

Section 4.02 No Subrogation, Contribution or Reimbursement. Notwithstanding any payment made by any Guarantor hereunder or any set-off or application of funds of any Guarantor by the Collateral Agent or any other Secured Party, no Guarantor shall be entitled to be subrogated to any of the rights of the Collateral Agent or any other Secured Party against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Collateral Agent or any other Secured Party for the payment of the Secured Obligations, nor shall any Guarantor seek or be entitled to seek any indemnity, exoneration, participation, contribution or reimbursement from the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, in each case, until Payment in Full, and each Guarantor hereby expressly waives, releases, and agrees not to exercise all such rights of subrogation, reimbursement, indemnity and contribution, in each case, until Payment in Full. Each Guarantor further agrees that to the extent that such waiver and release set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement, indemnity and contribution such Guarantor may have against the Borrower, any other Guarantor or against any collateral or security or guarantee or right of offset held by the Collateral Agent or any other Secured Party shall be junior and subordinate to any rights the Collateral Agent and the other Secured Parties may have against the Borrower and such Guarantor and to all right, title and interest the Collateral Agent and the other Secured Parties may have in any collateral or security or guarantee or right of offset. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Primary Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Collateral Agent and other the Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Collateral Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Collateral Agent, if required), to be applied against the Primary Obligations, whether matured or unmatured, in such order as the Collateral Agent may determine. The Collateral Agent, for the benefit of the Secured Parties, may, to the extent it has the right to do so in accordance with the terms and conditions of the Credit Agreement and the other Secured Agreements, use, sell or dispose of any item of Collateral or security as it sees fit without regard to any subrogation rights any Guarantor may have, and upon any disposition or sale, any rights of subrogation any Guarantor may have shall terminate.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Agents and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder and to induce the other Secured Parties to enter into other Secured Agreements, each Grantor hereby represents and warrants to the Collateral Agent and each other Secured Party that:

Section 5.01 Representations in Credit Agreement. In the case of each Guarantor, the representations and warranties set forth in Article VII of the Credit Agreement or in the other Secured Agreements, as they relate to such Guarantor, are true and correct in all material respects (unless already qualified by materiality in which case such applicable representation and warranty shall be true and correct) on and as of the date hereof, except to the extent any such representations and warranties expressly relate to an earlier date, in which case, such representations and warranties shall be true and correct in all material respects (unless already qualified by materiality in which case such applicable representation and warranty shall be true and correct) as of such specified earlier date.

Section 5.02 Title; No Other Liens. Except for the security interest granted to the Collateral Agent for the ratable benefit of the Secured Parties pursuant to this Agreement and Permitted Liens, such Grantor is the legal and beneficial owner of its respective items of the Collateral free and clear of any and all Liens. No financing statement or other public notice with respect to all or any part of the Collateral is on file or of record or registered in any public office, except such as have been filed or registered in favor of the Collateral Agent, for the ratable benefit of the Secured Parties, pursuant to this Agreement, the Security Documents or as are filed to secure Permitted Liens. No Person (other than the Collateral Agent, if applicable) has control (as defined in the UCC) over the Collateral.

Section 5.03 Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule 3 (which, in the case of all filings and other documents referred to on said Schedule, have been delivered to the Collateral Agent in completed and, if required, duly executed form) will constitute valid perfected security interests in all of the Collateral in which a security interest may be perfected by the actions specified on Schedule 3, in favor of the Collateral Agent for the ratable benefit of the Secured Parties, as collateral security for such Grantor's obligations, enforceable in accordance with the terms hereof against all creditors of such Grantor and any Persons purporting to purchase any Collateral from such Grantor, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity (whether considered in a proceeding in equity or at law) and (b) are prior and superior to all other Liens on the Collateral other than Excepted Liens that have priority by operation of law.

Section 5.04 Legal Name, Organizational Status, Chief Executive Office. On the date hereof, the correct legal name of such Grantor as it appears in its respective certificate of incorporation or any other organizational document, such Grantor's jurisdiction of organization, organizational number and the location of such Grantor's chief executive office or principal place of business are, in each case, specified on Schedule 4. Except as set forth in Schedule 4, as of the date hereof, no Grantor has changed its jurisdiction of organization at any time during the past four (4) months.

Section 5.05 Prior Names and Addresses. Schedule 5 correctly sets forth, as of the date hereof, (a) a list of all other names used by such Grantor, or any other business or organization to which such Grantor became the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization or otherwise, and on any filings with the Internal Revenue Service at any time within the five (5) years preceding the date hereof and (b) the chief executive office of such Grantor over the last five (5) years (if different from that which is set forth in Section 5.04 above).

Section 5.06 Investment Property.

(a) Schedule 2 sets forth a complete and accurate list of all Investment Property owned by such Grantor. The shares (or such other interests) of Pledged Securities pledged by such Grantor hereunder constitute all the issued and outstanding shares (or such other interests) of all classes of the capital stock or other Equity Interests of each Issuer owned by such Grantor. All the shares (or such other interests) of the Pledged Securities have been duly and validly authorized and issued and are fully paid and nonassessable (or, with respect to Pledged Securities that are capital stock in a partnership or limited liability company, have been duly and validity issued). None of the Pledged Securities is subject to the right of rescission under Governmental Requirements.

(b) To the knowledge of the applicable Grantor, each Pledged Note constitutes the legal, valid and binding obligation of the obligor with respect thereto, in each case, enforceable in accordance with its terms (subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing).

(c) Such Grantor is the record and beneficial owner of, and has good and marketable title to, the Investment Property pledged by it hereunder, free of any and all Liens except non-consensual Liens arising by operation of law and the security interest created by this Agreement.

(d) As of the date hereof, each of the Pledged Securities on Schedule 2 issued by (i) Clean Energy and pledged by Clean Energy Fuels Corp. hereunder and (ii) Clean Energy Fueling Services Corp. and pledged by Clean Energy hereunder constitutes a "security" under Section 8-103 of the UCC and each such "security" is a Certificated Security. No other Pledged Security is a "security" under Section 8-103 of the UCC as of the date hereof.

(e) Except for such consents as have been obtained as expressly contemplated by Section 8.16 of the Credit Agreement, no consent, approval, authorization, or other action by, and no giving of notice or filing with, any Governmental Authority or any other Person is required for the pledge by such Grantor of the Pledged Securities or the exercise of remedies pursuant to this Agreement or for the execution, delivery and performance of this Agreement by such Grantor, and no exercise of voting rights by the Collateral Agent as contemplated by this Agreement or transfer of Pledged Securities in the manner contemplated by this Agreement or other exercise of remedies under the Loan Documents is subject to any contractual restriction, or any restriction under the organizational documents of any Grantor, including requiring any consents or other actions thereunder. None of the Pledged Securities is subject to any voting trust, shareholder agreement or voting agreement or other agreement, right, instrument or understanding with respect to any purchase, sale, issuance, transfer, repurchase, redemption or voting agreement, other than limited liability company agreements, partnership agreements or other governing documents of the relevant Issuer.

Section 5.07 Goods. As of the date hereof, no portion of the Collateral constituting Goods with an aggregate value in excess of $500,000 is in the possession of a bailee that has issued a negotiable or non-negotiable document covering such Collateral.

Section 5.08 Instruments and Chattel Paper. As of the date hereof, such Grantor has delivered to the Collateral Agent all of its Collateral constituting Instruments and Chattel Paper existing on such date. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Chattel Paper, such Instrument or Chattel Paper shall be promptly (and in any event within ten (10) Business Days of the acquisition thereof) delivered to the Collateral Agent, duly indorsed in a manner satisfactory to the Collateral Agent, to be held as Collateral pursuant to this Agreement; provided that no such Instrument (to the extent the principal amount thereof does not exceed $500,000 in the aggregate) or Chattel Paper (to the extent the value thereof does not exceed $500,000 in the aggregate) shall be required to be delivered to the Collateral Agent.

Section 5.09 Truth of Information; Accounts. All information with respect to the Collateral set forth in any schedule, certificate or other writing at any time heretofore or hereafter furnished by such Grantor to the Collateral Agent or any other Secured Party, and all other written information heretofore or hereafter furnished by such Grantor to the Collateral Agent or any other Secured Party is and will be true and correct in all material respects as of the date furnished. The place where each Grantor keeps its records concerning the Collateral is at the location specified on Schedule 5 (as may be supplemented from time to time upon written notice to the Collateral Agent).

Section 5.10 Governmental Obligors. As of November 30, 2022, except as set forth on Schedule 9, none of the Account Debtors on such Grantor's Accounts, Chattel Paper or Payment Intangibles is a Governmental Authority.

Section 5.11 Commercial Tort Claims. All of the Grantors' rights in any Commercial Tort Claim as of the date hereof, are listed on Schedule 6. As of the date hereof, except to the extent listed on Schedule 6, no Grantor has rights in any Commercial Tort Claim with potential value in excess of $500,000.

Section 5.12 Accounts. As of the date hereof, all of such Grantor's Deposit Accounts, Securities Accounts and Commodity Accounts are listed on Schedule 7.

Section 5.13 Intellectual Property.

(a) As of the date hereof, Schedule 8 hereto sets forth a complete and accurate list of all issued, registered, renewed or the subject of a pending application Patents, Trademarks and Copyrights owned by each Grantor and of all inbound exclusive Patent Licenses, Trademark Licenses and Copyright Licenses to any Patents, Trademarks or Copyrights. All such Intellectual Property is exclusively owned, beneficially and of record, by such Grantor, except as set forth on Schedule 8, and free and clear of Liens other than Permitted Liens. This Agreement is effective to create a valid and continuing security interest in such Grantor's interest in, or title to, or pending application for any Intellectual Property (other than Excluded Assets) of such Grantor.

(b) All material Intellectual Property owned or purported to be owned by such Grantor is valid, subsisting, unexpired and enforceable, and has not been abandoned and (i) to the knowledge of such Grantor, no third party is infringing such Intellectual Property rights, except for infringements and conflicts that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) to the knowledge of the Grantor, the operation of the business of such Grantor does not infringe the Intellectual Property rights of any other Person.

(c) Except as set forth on Schedule 8 hereto, on the date hereof, none of the Intellectual Property owned or purported to be owned by such Grantor is the subject of any licensing or franchise agreement pursuant to which such Grantor is the licensor or franchisor other than non-exclusive licenses granted in the ordinary course of business.

(d) No holding, decision or judgment has been rendered by any Governmental Authority which would limit, cancel or question the validity of, or such Grantor's rights in, any material Intellectual Property owned or purported to be owned by such Grantor or, to the knowledge of such Grantor, any material Intellectual Property owned by a third party and used in the business of such Grantor.

(e) No action or proceeding is pending, or, to the knowledge of such Grantor, threatened, on the date hereof (i) seeking to limit, cancel or question the validity of any Intellectual Property owned or purported to be owned by such Grantor or such Grantor's ownership interest or right therein, or (ii) which, if adversely determined, would have a material adverse effect on the value of such Intellectual Property.

Section 5.14 Inventory and Equipment. As of the date hereof, all existing Inventory and Equipment having a value in excess of $500,000 owned by such Grantor (other than such Inventory and Equipment in transit, temporarily relocated for repair or maintenance, or in the possession of employees in the ordinary course of business) is located at the addresses set forth in Schedule 4.

ARTICLE VI
COVENANTS

Each Grantor covenants and agrees with the Collateral Agent and the other Secured Parties that, from and after the date of this Agreement until Payment in Full:

Section 6.01 Covenants in Credit Agreement. In the case of each Guarantor, such Guarantor shall perform and observe all covenants applicable to it in the Credit Agreement or the other Secured Agreements.

Section 6.02 Maintenance of Perfected Security Interest; Further Documentation.

(a) Such Grantor shall maintain the security interest created by this Agreement as a first priority Lien (subject to Excepted Liens that have priority by operation of law) upon the Collateral; provided that Permitted Liens may exist, but no intent to subordinate the priority of the Liens created hereby is intended or inferred by such existence. Such Grantor will not create or suffer to be created or permit to exist any Lien, security interest or charge prior or junior to or on a parity with the Lien created by this Agreement upon the Collateral or any part thereof other than Permitted Liens; provided that no such Liens shall be prior to or *pari passu* with the Liens created hereby other than Excepted Liens that have priority by operation of law). Such Grantor will warrant and use commercially reasonable efforts to defend the title to the Collateral against the claims and demands of all other Persons whomsoever and will maintain and preserve the Liens created hereby (and the priority specified herein) until Payment in Full. If (i) an adverse claim be made against any part of the Collateral (other than the existence of Permitted Liens) or (ii) any Person, including the holder of a Permitted Lien (other than Excepted Liens that have priority by operation of law), shall challenge the priority or validity of the Liens created by this Agreement, then such Grantor agrees to use commercially reasonable efforts to promptly defend against such adverse claim, take appropriate action to remove such cloud or subordinate such Permitted Lien (other than Excepted Liens that have priority by operation of law), in each case, at such Grantor's sole cost and expense. Such Grantor further agrees that the Collateral Agent may take such other action as it deems advisable to protect and preserve its interest (for itself and on behalf of the other Secured Parties) in the Collateral, and, in such event, such Grantor will indemnify the Collateral Agent against any and all reasonable and documented out of pocket costs, attorneys' fees and other expenses which it may incur in defending against any such adverse claim.

(b) At any time and from time to time, upon the reasonable written request of the Collateral Agent, and at the sole expense of such Grantor, such Grantor will promptly and duly give, execute, deliver, indorse, file or record any and all financing statements, continuation statements, amendments, notices (including notifications to financial institutions and any other Person), contracts, agreements (including intellectual property security agreements), assignments, certificates, stock powers or other instruments, obtain any and all governmental approvals and consents and take or cause to be taken any and all steps or acts that may be necessary or as the Collateral Agent may reasonably request to create, perfect, establish at least the priority described in Section 5.03 of, or to preserve the validity, perfection or priority of, the Liens granted by this Agreement or to enable the Collateral Agent or any other Secured Party to enforce its rights, remedies, powers and privileges under this Agreement with respect to such Liens or to otherwise obtain or preserve the full benefits of this Agreement and the rights, powers and privileges herein granted; provided that, notwithstanding anything in this Agreement or any other Secured Document to the contrary, in no event shall any Grantor be required to take any Excluded Perfection Action.

(c) Without limiting the obligations of the Grantors under Section 6.02(b), all Deposit Accounts, Commodity Accounts and Securities Accounts of any Grantor (including the Collateral Accounts, but not including the Excluded Accounts) shall be subject to the Lien of the Collateral Agent under this Agreement and such accounts shall be required to be covered by a Control Agreement (i) in the case of the Collateral Accounts and any other Deposit Accounts, Commodity Accounts and Securities Accounts (but not including any Excluded Accounts) of any Grantor in existence on the date hereof, such Control Agreement to be executed by the applicable Grantor within thirty (30) days of the Closing Date (or by such later time as the Collateral Agent may agree in its sole discretion) and (ii) in the case of any Deposit Account, Commodity Account or Securities Account (but not including any Excluded Accounts) by any Grantor opened after the Closing Date (with the prior consent of the Administrative Agent), substantially contemporaneously with (or by such later time as the Collateral Agent may agree in its sole discretion) the opening of any such Deposit Account, Commodity Account or Securities Account. The Borrower and each other Grantor hereby agree that, from and after receipt of a copy of any notice of sole control (or equivalent notice) delivered by any Agent under any Control Agreement with respect to any Collateral Account or any other Deposit Account, Commodity Account or Securities Account, the Borrower or such Grantor shall not direct the applicable depositary bank to disburse funds from or otherwise transfer any funds out of such Collateral Account or such other Deposit Account, Commodity Account or Securities Account, notwithstanding any ability to do so under any such Control Agreement.

(d) Without limiting the obligations of the Grantors under Section 6.02(b), at any time and from time to time upon the written request of the Collateral Agent such Grantor shall take or cause to be taken all actions (other than any actions required to be taken by the Collateral Agent or any Lender) reasonably requested by the Collateral Agent to cause the Collateral Agent to (i) have "control" (within the meaning of Sections 8-106, 9-104, 9-105, 9-106, and 9-107 of the UCC) over any Collateral constituting Electronic Chattel Paper, Investment Property (including Certificated Securities), or Letter-of-Credit Rights, including executing and delivering any agreements, in form and substance reasonably satisfactory to the Collateral Agent, with securities intermediaries, issuers or other Persons in order to establish "control", and such Grantor shall promptly notify the Collateral Agent of such Grantor's acquisition of any such Collateral, and (ii) be a "protected purchaser" (as defined in Section 8-303 of the UCC).

(e) This Section 6.02 and the obligations imposed on each Grantor hereof shall be interpreted as broadly as possible in favor of the Collateral Agent for the benefit of the other Secured Parties in order to effectuate the purpose and intent of this Agreement.

Section 6.03 Maintenance of Records. Such Grantor will keep and maintain at its own cost and expense complete records of the Collateral, including a record of all payments received and all credits granted with respect to the Accounts. Such Grantor shall provide access to any such books and records to any Agent or to its representatives in accordance with Section 8.08 of the Credit Agreement.

Section 6.04 Further Identification of Collateral. Such Grantor will furnish to the Collateral Agent from time to time, at such Grantor's sole cost and expense, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail, including without limitation as required pursuant to Section 6.09(e) and requests pursuant to Section 8.11(a) of the Credit Agreement.

Section 6.05 Investment Property.

(a) If such Grantor shall become entitled to receive or shall receive any stock certificate or other instrument (including any certificate or instrument representing a dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate or instrument issued in connection with any reorganization), option or rights in respect of the capital stock or other Equity Interests of any Issuer (other than Excluded Equity Interests), whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares (or such other interests) of the Pledged Securities, or otherwise in respect thereof, such Grantor shall accept the same as the agent of the Collateral Agent, hold the same in trust for the Collateral Agent and promptly deliver the same forthwith to the Collateral Agent in the exact form received, duly indorsed by such Grantor to the Collateral Agent, if required, together with an undated stock power or other equivalent instrument of transfer acceptable to the Collateral Agent covering such certificate or instrument duly executed in blank by such Grantor, to be held by the Collateral Agent, subject to the terms hereof, as additional collateral security for the Secured Obligations. Upon the occurrence and during the continuance of an Event of Default, (i) any sums paid upon or in respect of any Investment Property upon the liquidation or dissolution of any Issuer shall be paid over to the Collateral Agent to be held, at the Collateral Agent's option, either by it hereunder as additional Collateral for the Secured Obligations or applied to the Secured Obligations as provided in Section 7.04, and (ii) in case any distribution of capital shall be made on or in respect of any Investment Property or any property shall be distributed upon or with respect to any Investment Property pursuant to the recapitalization or reclassification of the capital of any Issuer or pursuant to the reorganization thereof, the property so distributed shall, unless otherwise subject to a perfected security interest in favor of the Collateral Agent for the ratable benefit of the Secured Parties, be delivered to the Collateral Agent to be held, at the Collateral Agent's option, either by it hereunder as additional Collateral for the Secured Obligations or applied to the Secured Obligations as provided in Section 7.04. Upon the occurrence and during the continuance of an Event of Default, if any sums of money or property so paid or distributed in respect of any Investment Property shall be received by such Grantor, such Grantor shall, until such money or property is paid or delivered to the Collateral Agent, hold such money or property in trust for the Secured Parties, segregated from other funds of such Grantor, as additional Collateral for the Secured Obligations.

(b) Without the prior written consent of the Collateral Agent, such Grantor will not (i) vote to enable, or take any other action to permit, any Issuer to issue any stock or other Equity Interests of any nature or to issue any other securities or interests convertible into or granting the right to purchase or exchange for any stock or other Equity Interests of any nature of any Issuer (except pursuant to a transaction expressly permitted by the Credit Agreement), (ii) sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, the Investment Property or Proceeds thereof, (iii) create, incur or permit to exist any Lien or option in favor of, or any claim of any Person with respect to, any of the Investment Property or Proceeds thereof, or any interest therein, except for the security interests created by this Agreement or (iv) enter into any agreement or undertaking after the Closing Date restricting the right or ability of such Grantor or the Collateral Agent to sell, assign or transfer any of the Investment Property or Proceeds thereof.

(c) In the case of each Grantor which is also an Issuer, such Issuer agrees that (i) it will be bound by the terms of this Agreement relating to the Investment Property issued by it and will comply with such terms insofar as such terms are applicable to it, (ii) it will notify the Administrative Agent and the Collateral Agent promptly in writing of the occurrence of any of the events described in Section 6.05(a) with respect to the Investment Property issued by it and (iii) the terms of Section 7.01(c) and Section 7.05 shall apply to it, *mutatis mutandis*, with respect to all actions that may be required of it pursuant to Section 7.01(c) or Section 7.05 with respect to the Investment Property issued by it. Each Grantor will have each non-Grantor Issuer execute and deliver an Acknowledgment and Consent substantially in the form of Annex I. In addition, each Grantor which is also either an Issuer or an owner of any Investment Property consents to the grant by each other Grantor of the security interest hereunder in favor of the Collateral Agent and to the transfer of any Investment Property to the Collateral Agent or its nominee upon the occurrence or during the continuation of an Event of Default and to the substitution of the Collateral Agent or its nominee as a partner, member or shareholder of the Issuer of the related Investment Property without the need for any further action by any Grantor or Issuer (and hereby confirms that no such action is required).

(d) Without the prior written consent of the Collateral Agent, such Grantor shall not vote to enable, consent to or take any other action to amend, terminate or waive any default under or breach of any terms of any governing document in any way that adversely affects the validity, perfection or priority of the Collateral Agent's security interest hereunder. Unless otherwise consented to by the Collateral Agent, (i) Pledged Securities required to be pledged hereunder that are issued by Clean Energy and Clean Energy Fueling Services Corp. shall constitute Certificated Securities and be represented by a certificate and, in the Organizational Documents of the applicable Issuer, the applicable Grantor shall cause the Issuer of such interests to elect to treat such interests as a "security" within the meaning of Section 8-103 of the UCC (and all certificates representing such Pledged Securities (and any additional Pledged Securities acquired or issued after the date hereof) shall have been delivered to the Collateral Agent, together with duly executed instruments of transfer or assignment in blank) and (ii) the Pledged Securities required to be pledged hereunder that are issued by each Grantor other than Clean Energy and Clean Energy Fuels. Corp shall not constitute a "security" within the meaning of Section 8-103 of the UCC. With respect to any "securities" for purposes of Section 8-103 of the UCC owned by any Grantor which are "securities" on the date hereof or, if such Pledged Securities are owned or acquired by such Grantor after the date hereof, the Grantor shall ensure the Collateral Agent has a perfected security interest with at least the priority described in Section 5.03(b) in such "security" on the date hereof or substantially concurrently with the date of acquisition, as the case may be.

(e) Such Grantor shall furnish to the Collateral Agent such stock powers and other equivalent instruments of transfer as may be required by the Collateral Agent to assure the transferability of and the perfection of the security interest in the Pledged Securities as may be reasonably requested by the Collateral Agent. No Grantor shall permit any Issuer to cause any Pledged Security to be a Certificated Security unless such Grantor promptly delivers such Pledged Securities to the Collateral Agent in the exact form received, duly indorsed by such Grantor to the Collateral Agent, if required, together with an undated stock power or other equivalent instrument of transfer reasonably acceptable to the Collateral Agent covering such certificate or instrument duly executed in blank by such Grantor.

(f) The Pledged Securities will at all times constitute not less than 100% of the capital stock or other Equity Interests of the Issuer thereof owned by any Grantor (other than Excluded Equity Interests). Upon the issuance of any new shares (or other interests) of any class of capital stock or other Equity Interests of an Issuer to a Grantor (other than Excluded Equity Interests), such Equity Interests shall be pledged to the Collateral Agent pursuant to the terms hereof and such Grantor shall promptly deliver any such Equity Interests that are required to be pledged hereunder in the exact form received, duly indorsed by such Grantor to the Collateral Agent, if required, together with an undated stock power or other equivalent instrument of transfer acceptable to the Collateral Agent covering such certificate or instrument duly executed in blank by such Grantor.

Section 6.06 Limitations on Modifications, Waivers, Extensions of Agreements Giving Rise to Accounts. Such Grantor will not (a) amend, modify, terminate or waive any provision of any Chattel Paper, Instrument or any agreement giving rise to an Account or Payment Intangible in any manner which could reasonably be expected to materially adversely affect the collective value of the Collateral as a whole, or (b) fail to exercise promptly and diligently each and every material right which it may have under any Chattel Paper, Instrument and each agreement giving rise to an Account or Payment Intangible with a value in excess of $500,000 in the aggregate (other than any right of termination).

Section 6.07 Instruments and Tangible Chattel Paper. If any amounts payable in excess of $500,000 under or in connection with any of the Collateral shall be or become evidenced by any Instrument or Tangible Chattel Paper, such Instrument or Tangible Chattel Paper shall be delivered to the Collateral Agent within twenty (20) days (or such longer period agreed by the Collateral Agent), duly indorsed in a manner satisfactory to the Collateral Agent, to be held as Collateral pursuant to this Agreement.

Section 6.08 Commercial Tort Claims. If such Grantor shall obtain an interest in any Commercial Tort Claim with a potential value in excess of $500,000, as determined by such Grantor in its reasonable discretion, such Grantor shall within twenty (20) days (or such longer period agreed by the Collateral Agent) of obtaining such interest sign and deliver documentation reasonably acceptable to the Collateral Agent granting a security interest under the terms and provisions of this Agreement in and to such Commercial Tort Claim. The provisions of the preceding sentence shall apply only to a Commercial Tort Claim that satisfies the following requirements: (i) the monetary value claimed by or payable to the relevant Grantor in connection with such Commercial Tort Claim shall exceed $500,000, and either (ii) (A) such Grantor shall have filed a law suit or counterclaim or otherwise commenced legal proceedings against the Person against whom such Commercial Tort Claim is made or (B) such Grantor and the Person against whom such Commercial Tort Claim is asserted shall have entered into a settlement agreement with respect to such Commercial Tort Claim.

Section 6.09 Intellectual Property.

(a) The Collateral Agent or its designee may (but without obligation to do so) file this Agreement (or, if applicable, such Patent, Trademark and Copyright Security Agreements with respect to the Grantors' United States and Canadian Patents, Trademarks and Copyrights, exclusive Copyright Licenses to registered United States Copyrights and Canadian Copyrights, and exclusive licenses to registered Canadian industrial designs) with the United States Copyright Office, the United States Patent and Trademark Office, or the Canadian Intellectual Property Office, as applicable.

(b) Such Grantor (either itself or through licensees) will not do any act or omit to do any act, whereby any of its Patents may become forfeited, abandoned or dedicated to the public. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, any Grantor may fail to maintain, discontinue use of, abandon, terminate, or otherwise Dispose of its Intellectual Property in accordance with the Credit Agreement.

(c) Such Grantor (either itself or through licensees) will not do any act that knowingly infringes the Intellectual Property rights of any other Person.

(d) Such Grantor will notify the Collateral Agent and the other Secured Parties promptly if it knows, or has reason to know, that any application or registration relating to any of its Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court or tribunal in any country) regarding such Grantor's ownership of, or the validity of, any of its Intellectual Property or such Grantor's right to register the same or to own and maintain the same, in each case, which could reasonably be expected to have a Material Adverse Effect.

(e) Whenever such Grantor, either by itself or through any agent, employee, licensee or designee, shall (i) file an application for the registration of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, (ii) develop or acquire ownership rights in a registration or application for the registration of any Intellectual Property with the United States Patent and Trademark Office, The United States Copyright Office or any similar office or agency in any other county or any political subdivision thereof or (iii) enter into a Copyright License, Patent License or Trademark License granting exclusive rights in a registered Copyright, Patent, or Trademark, respectively, or enter into a license granting exclusive rights in a registered Canadian industrial design, such Grantor shall include information with respect to such filing, acquisition or new License in the compliance certificate delivered pursuant to Section 8.01(c) of the Credit Agreement with respect to the fiscal quarter in which such filing, acquisition or entrance into such new License occurs (except that with respect to such United States Copyrights and exclusive Copyright Licenses, the period shall be 30 days from such filing, acquisition or entrance into a new license) and such Grantor concurrently shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as the Collateral Agent may reasonably request (including Patent, Trademark and Copyright Security Agreements) to record and perfect or otherwise evidence the Collateral Agent's and the other Secured Parties' security interest in any such Copyright, Patent or Trademark or such exclusive Copyright License or other license, and the goodwill and general intangibles of such Grantor relating thereto or represented thereby.

(f) Such Grantor will take all commercially reasonable and necessary steps, including, without limitation, in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the material Intellectual Property owned or purported to be owned by each such Grantor, including, without limitation, filing of divisional, continuation, continuation-in-part, reissue, and renewal applications, affidavits of use and affidavits of incontestability, the payment of maintenance fees, and the participation in interference, reexamination, opposition, cancellation, and other proceedings. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, any Grantor may discontinue use of, abandon, terminate or otherwise Dispose of its Intellectual Property in accordance with the terms of the Credit Agreement.

(g) In the event that any material Intellectual Property owned or purported to be owned by a Grantor is infringed, misappropriated, violated or diluted by a third party, such Grantor shall (i) take such actions as such Grantor shall reasonably deem appropriate under the circumstances to protect such Intellectual Property and (ii) if such Intellectual Property is of material economic value, promptly notify the Collateral Agent after it learns thereof and sue for infringement, misappropriation or dilution, to seek injunctive relief where appropriate and to recover any and all damages for such infringement, misappropriation or dilution.

Section 6.10 Environmental Credits.

(a) Nothing in this Agreement, the Credit Agreement or any other Loan Document shall be interpreted or deemed to impart any responsibility to the Administrative Agent, the Collateral Agent or any Secured Party to comply with the RFS (including requirements therein for RINs) as an "obligated party" pursuant to 40 C.F.R. Part 80, as amended from time to time, or with the LCFS, in either case, by virtue of the transactions contemplated by this Agreement, the Credit Agreement or any other Loan Document. Notwithstanding any other terms or provisions of this Agreement, the Credit Agreement or any other Loan Document, in all transactions under this Agreement, the Credit Agreement or any other Loan Document, the Loan Parties shall comply with the RFS (including requirements therein for RINs) pursuant to 40 C.F.R. Part 80 and with the LCFS, and remain solely responsible for the proper accounting of Environmental Credits, as well as the replacement of any invalid Environmental Credits that are required in connection with any activities or transactions of the Loan Parties and any and all costs and expenses associated therewith.

(b) Clean Energy Renewable Fuels, LLC has registered with the Environmental Protection Agency under a separate company identification number (the "Company ID") and established an account in the CDX and EMTS under the Company ID (the "EMTS Account"). Subject to any applicable laws or regulations or any dispositions or transfers in accordance with the Credit Agreement, any RINs allocated to Clean Energy Renewable Fuels, LLC in the foregoing manner shall be the property of Clean Energy Renewable Fuels, LLC and constitute part of the Collateral hereunder. Promptly following the submission of annual reports by Clean Energy Renewable Fuels, LLC into its EMTS Account, Clean Energy Renewable Fuels, LLC shall provide copies of all such reports to the Collateral Agent. In addition, Clean Energy Renewable Fuels, LLC shall, from time to time upon the reasonable request of the Collateral Agent, (i) provide to the Collateral Agent such further confirmation of the RINs allocated to and owned by Clean Energy Renewable Fuels, LLC, and (ii) execute such further documents and instruments and take such further actions to the extent necessary to confirm the status of such RINs as part of the Collateral hereunder.

(c) Subject to any applicable laws or regulations or any dispositions or transfers in accordance with the Credit Agreement, any LCFS credits allocated to a Grantor shall be the property of such Grantor and constitute part of the Collateral hereunder. Following the submission of quarterly reports by a Grantor in accordance with the LCFS program, such Grantor shall provide copies of all such reports to the Collateral Agent. In addition, such Grantor shall, from time to time upon the reasonable request of the Collateral Agent, (i) provide to the Collateral Agent such further confirmation of the LCFS allocated to and owned by such Grantor, and (ii) execute such further documents and instruments and take such further actions to the extent necessary to confirm the status of such LCFS as part of the Collateral hereunder.

(d) At any time after the occurrence and during the continuation of an Event of Default (and without limiting any other rights or remedies of the Collateral Agent and the other Secured Parties hereunder, under any other Loan Document or otherwise), each Grantor agrees that, upon the request of the Collateral Agent, it will promptly execute such documents and take such actions as the Collateral Agent deems necessary to enable the Collateral Agent to execute transactions relating to the Environmental Credits that are part of the Collateral hereunder, including, without limitation, appointment of an entity designated by the Collateral Agent as authorized to execute transactions on the EMTS system (or comparable state system) and enter into product transfer documents or similar agreements for the transfer of Environmental Credits.

Section 6.11 Additional Grantors. Each Grantor agrees to cause each of its Subsidiaries that is required to become a party to this Agreement pursuant to Section 8.11 or Section 8.12(d) of the Credit Agreement to become a Grantor and/or a Guarantor for all purposes of this Agreement by executing and delivering an Assumption Agreement.

ARTICLE VII
REMEDIAL PROVISIONS

Section 7.01 Pledged Securities.

(a) Unless an Event of Default shall have occurred and be continuing and the Collateral Agent shall have given written notice to the relevant Grantor of the Collateral Agent's intent to exercise its corresponding rights pursuant to Section 7.01(b) (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice in connection with an Event of Default under Section 10.01(f) or Section 10.01(g) of the Credit Agreement or if the delivery of such notice is otherwise prohibited by applicable law), each Grantor shall be permitted to receive (i) all cash dividends paid in respect of the Pledged Securities and (ii) all payments made in respect of the Pledged Notes, to the extent permitted in the Credit Agreement, and to exercise all voting, corporate and other organizational rights with respect to the Pledged Securities; provided, however, that no vote shall be cast or corporate or other organizational right exercised or other action taken which, in the Collateral Agent's judgment, would reasonably be expected to materially impair the Collateral Agent's rights in the Collateral or which would be inconsistent with or result in any violation of any provision of the Credit Agreement, this Agreement or any other Secured Agreement.

(b) If an Event of Default shall occur and be continuing and the Collateral Agent shall give written notice of its intent to exercise such rights to the relevant Grantor or Grantors (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice in connection with an Event of Default under Section 10.01(f) or Section 10.01(g) of the Credit Agreement or if the delivery of such notice is otherwise prohibited by applicable law), (i) all rights of any Grantor to receive dividends, interest and principal which such Grantor is authorized to receive pursuant to Section 7.01(a) shall cease, and all such rights shall thereupon become vested in the Collateral Agent, and the Collateral Agent shall have the right to receive any and all cash dividends, payments or other Proceeds paid in respect of the Pledged Securities and the Pledged Notes and make application thereof to the Secured Obligations in such order as the Collateral Agent may determine (and all dividends, payments or other Proceeds which are received by any Grantor contrary to the provisions of this Section 7.01(b) shall be held in trust for the benefit of the Collateral Agent, shall be segregated from other property or funds of such Grantor and shall be immediately delivered to the Collateral Agent in the same form as so received (with any necessary endorsement), and (ii) the Collateral Agent or its nominee may exercise (whether or not the Collateral or any of the Pledged Security has been transferred into the name of the Collateral Agent or its nominee) (A) all voting, corporate, consenting and other organizational rights pertaining to such Pledged Security at any meeting of shareholders (or other equivalent body) of the relevant Issuer or Issuers or in the absence of any such meeting or otherwise (and each Grantor, upon entry into this Agreement, hereby grants to the Collateral Agent a present, irrevocable proxy, coupled with an interest and hereby constitutes and appoints the Collateral Agent as such Grantor's proxy with full power, in the same manner, to the same extent and with the same effect as if such Grantor were to do the same, to exercise such rights) and (B) any and all rights of conversion, exchange and subscription and any other rights, privileges or options pertaining to such Pledged Security as if it were the absolute owner thereof (including, the right to exchange at its discretion any and all of the Pledged Securities upon the merger, consolidation, reorganization, recapitalization or other fundamental change in the corporate or other organizational structure of any Issuer, or upon the exercise by any Grantor or the Collateral Agent of any right, privilege or option pertaining to such Pledged Securities, and in connection therewith, the right to deposit and deliver any and all of the Investment Property with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Collateral Agent may determine), all without liability except to account for property actually received by it, but the Collateral Agent shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing. As further assurance of the proxy granted hereby, each Grantor shall from time to time execute and deliver to the Collateral Agent, all such additional written proxies and other instruments as the Collateral Agent shall reasonably request for the purpose of enabling the Collateral Agent to exercise the voting and other rights which it is entitled to exercise hereunder. Each Grantor hereby revokes any proxy or proxies heretofore given by such Grantor to any person or persons whatsoever and agrees not to give any other proxies in derogation hereof until this Agreement is no longer in full force and effect as hereinafter provided.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Securities pledged by such Grantor hereunder (and each such Issuer party hereto hereby agrees) to (i) comply with any instruction received by it from the Collateral Agent in writing that (A) states that an Event of Default has occurred and is continuing and (B) is otherwise in accordance with the terms of this Agreement, without any other or further action or instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying, and (ii) at any time that an Event of Default exists, comply with any instruction received by it from the Collateral Agent in writing to pay any dividends or other payments with respect to the Pledged Securities and Pledged Notes directly to the Collateral Agent. If an Event of Default shall have occurred and be continuing, the Collateral Agent shall have the right (in its sole and absolute discretion) to register the Pledged Stock in its own name as pledgee, or the name of its nominee (as pledgee) or the name of the applicable Grantor or Issuer, endorsed or assigned in blank or in favor of the Collateral Agent.

(d) After the occurrence and during the continuation of an Event of Default, if the Issuer of any Pledged Securities is the subject of bankruptcy, insolvency, receivership, custodianship or other proceedings under the supervision of any Governmental Authority, then all rights of the Grantor in respect thereof to exercise the voting and other consensual rights which such Grantor would otherwise be entitled to exercise with respect to the Pledged Securities issued by such Issuer shall cease, and all such rights shall thereupon become vested in the Collateral Agent who shall thereupon have the sole right to exercise such voting and other consensual rights, but the Collateral Agent shall have no duty to exercise any such voting or other consensual rights and shall not be responsible for any failure to do so or delay in so doing.

Section 7.02 Collections on Accounts, Etc. The Collateral Agent hereby authorizes each Grantor to collect upon the Accounts, Instruments, Chattel Paper and Payment Intangibles subject to the Collateral Agent's direction and control, and the Collateral Agent may curtail or terminate said authority at any time after the occurrence and during the continuance of an Event of Default. Upon the written request of the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, each Grantor shall notify the Account Debtors that the applicable Accounts, Chattel Paper and Payment Intangibles have been assigned to the Collateral Agent for the ratable benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Collateral Agent. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent may in its own name or in the name of others communicate with the Account Debtors to verify with them to its satisfaction the existence, amount and terms of any Accounts, Chattel Paper or Payment Intangibles.

Section 7.03 Proceeds. If required by the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, any payments of Accounts, Instruments, Chattel Paper and Payment Intangibles, when collected or received by each Grantor, and any other cash or non-cash Proceeds received by each Grantor upon the sale or other disposition of any Collateral, shall be forthwith (and, in any event, within five (5) Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to the Collateral Agent if required, in a special collateral account maintained by the Collateral Agent, subject to withdrawal by the Collateral Agent for the ratable benefit of the Secured Parties only, as hereinafter provided, and, until so turned over, shall be held by such Grantor in trust for the Collateral Agent for the ratable benefit of the Secured Parties, segregated from other funds of any such Grantor. Any such Proceeds so deposited shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit. All Proceeds (including Proceeds constituting collections of Accounts, Chattel Paper, and Instruments) while held by the Collateral Agent (or by any Grantor in trust for the Collateral Agent for the ratable benefit of the Secured Parties) shall continue to be collateral security for all of the Secured Obligations and shall not constitute payment thereof until applied as hereinafter provided. At such intervals as may be agreed upon by each Grantor and the Collateral Agent, or, if an Event of Default shall have occurred and be continuing, at any time at the Collateral Agent's election, the Collateral Agent shall apply all or any part of the funds on deposit in said special collateral account on account of the Secured Obligations in accordance with Section 10.03(c) of the Credit Agreement.

Section 7.04 Uniform Commercial Code and Other Remedies.

(a) If an Event of Default shall occur and be continuing, the Collateral Agent, on behalf of the Secured Parties, may exercise in its discretion, in addition to all other rights, remedies, powers and privileges granted to them in this Agreement and any other Secured Agreement, all rights, remedies, powers and privileges of a secured party under the UCC (whether the UCC is in effect in the jurisdiction where such rights, remedies, powers or privileges are asserted) or any other applicable law or otherwise available at law or equity. Without limiting the generality of the foregoing, if an Event of Default has occurred and is continuing, the Collateral Agent (or its agent), without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, license, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Collateral Agent or any other Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem appropriate, for cash or on credit or for future delivery without assumption of any credit risk. The Collateral Agent or any other Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. If an Event of Default shall occur and be continuing, each Grantor further agrees, at the Collateral Agent's request, to assemble the Collateral and make it available to the Collateral Agent at places which the Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. Any such sale or transfer by the Collateral Agent either to itself or to any other Person shall be absolutely free from any claim of right by Grantor, including any equity or right of redemption, stay or appraisal which Grantor has or may have under any rule of law, regulation or statute now existing or hereafter adopted. Upon any such sale or transfer, the Collateral Agent shall have the right to deliver, assign and transfer to the purchaser or transferee thereof the Collateral so sold or transferred. The Collateral Agent shall apply the net proceeds of any action taken by it pursuant to this Section 7.04, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Collateral Agent and the other Secured Parties hereunder, including reasonable out-of-pocket attorneys' fees and disbursements, to the payment in whole or in part of the Secured Obligations, in accordance with Section 10.03(c) of the Credit Agreement, and only after such application and after the payment by the Collateral Agent of any other amount required by any provision of law, including Section 9-615 of the UCC, need the Collateral Agent account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Collateral Agent or any other Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) Business Days before such sale or other disposition.

(b) In the event that the Collateral Agent elects not to sell the Collateral, the Collateral Agent retains its rights to dispose of or utilize the Collateral or any part or parts thereof in any manner authorized or permitted by law or in equity, and to apply the proceeds of the same towards payment of the Secured Obligations in accordance with the Credit Agreement. The Collateral Agent may appoint any Person as agent to perform any act or acts necessary or incident to any sale or transfer of the Collateral.

(c) Upon the occurrence and during the continuation of an Event of Default the Collateral Agent, without notice to any Grantor (except as required by applicable law) and at such times as the Collateral Agent in its sole judgment may determine, exercise any or all of any Grantor's rights in, to and under, or in any way connected to, the Collateral (including the performance of any Grantor's obligations, and the exercise of any Grantor's rights and remedies, under the Assigned Agreements) and give written notice of sole control or any other instruction under any Control Agreement and take any action therein with respect to such Collateral.

Section 7.05 Private Sales of Pledged Securities.

(a) Each Grantor recognizes that, if an Event of Default has occurred and is continuing, the Collateral Agent may be unable to effect a public sale of any or all the Pledged Securities, by reason of certain prohibitions contained in the Securities Act of 1933 (as amended, the "Securities Act") and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Collateral Agent shall be under no obligation to delay a sale of any of the Pledged Securities for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so. Each Grantor agrees to use its reasonable best efforts to do or cause to be done all such acts as may reasonably be necessary to make such sale or sales of all or any portion of the Pledged Securities pursuant to this Section 7.05 valid and binding and in compliance with any and all other applicable Governmental Requirements. Each Grantor further agrees that a breach of any of the covenants contained in this Section 7.05 will cause irreparable injury to the Collateral Agent and the other Secured Parties, that the Collateral Agent and the other Secured Parties have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 7.05 shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants.

Section 7.06 Waiver; Deficiency. To the extent permitted by applicable law, each Grantor waives and agrees not to assert any rights or privileges which it may acquire under the UCC or any other applicable law. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Secured Obligations and the fees and disbursements of any attorneys employed by the Collateral Agent or any other Secured Party to collect such deficiency.

Section 7.07 Non-Judicial Enforcement. The Collateral Agent may enforce its rights hereunder without prior judicial process or judicial hearing, and to the extent permitted by law, each Grantor expressly waives any and all legal rights which might otherwise require the Collateral Agent to enforce its rights by judicial process.

Section 7.08 Grant of Intellectual Property License. Solely for the purpose of enabling the Collateral Agent to exercise the rights and remedies under this Article VII, each Grantor hereby grants to the Collateral Agent, to the extent permitted by applicable law and by the terms and conditions of any applicable license, sub-license or other agreement (provided that such third party license or similar agreement was not entered into in contemplation of such grant), for the benefit of the Collateral Agent and the other Secured Parties, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to any Grantor) to use, license, sublicense or otherwise exploit, during the continuance of an Event of Default, any Intellectual Property rights included in the Collateral, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, and any other physical or tangible media embodying same, the right to prosecute and maintain all Intellectual Property and the right to sue for past, present or future infringement of the Intellectual Property; provided that any license, sublicense or other transaction entered into by the Collateral Agent with third parties in accordance herewith shall be binding upon the Grantors notwithstanding any subsequent cure of an Event of Default.

Section 7.09 Assigned Agreements.

(a) Upon the request of the Collateral Agent, at any time after the occurrence and during the continuance of an Event of Default, each Grantor shall notify the parties to any Assigned Agreement that such Assigned Agreement has been assigned to the Collateral Agent for the benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Collateral Agent.

(b) In the event of a default by any Grantor in the performance of any of its obligations under any Assigned Agreement, or upon the occurrence or non-occurrence of any event or condition under any such Assigned Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable another party of such Assigned Agreement to terminate or suspend its performance under such Assigned Agreement, the Collateral Agent may (but shall not be obligated to), with prior written notice to such Grantor (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice in connection with an Event of Default under Section 10.01(f) or Section 10.01(g) of the Credit Agreement or if the delivery of such notice is otherwise prohibited by applicable law), cause the performance of such obligations, and the fees, costs and expenses (including fees and expenses of outside counsel) of the Collateral Agent incurred in connection therewith shall be payable by or on behalf of such Grantor, together with interest thereon at the rate applicable to ABR Loans, or during the continuance of an Event of Default, the Post-Default Rate from the date of payment by the Collateral Agent to the date reimbursed by the relevant Grantor, and shall constitute Secured Obligations hereunder.

Section 7.10 Grantors Remain Obligated. No sale or other disposition of all or any part of the Collateral pursuant to Article VII shall be deemed to relieve any Grantor of its obligations under any Loan Document except to the extent the proceeds thereof are applied to the payment of such obligations.

Section 7.11 Purchase of Collateral. The Collateral Agent or any other Secured Party may be a purchaser of the Collateral or any part thereof or any right or interest therein at any sale thereof, whether pursuant to foreclosure, power of sale or otherwise hereunder and the Collateral Agent may apply the purchase price to the payment of the applicable Secured Obligations. Any purchaser of all or any part of the Collateral shall, upon any such purchase, acquire good title to the Collateral so purchased, free of the Liens created by this Agreement.

ARTICLE VIII
THE COLLATERAL AGENT

Section 8.01 Collateral Agent's Appointment as Attorney-in-Fact, Etc.

(a) Each Grantor hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all reasonably appropriate action and to execute any and all documents and instruments which may be reasonably necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Collateral Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(i) pay or discharge taxes and Liens (including Indebtedness secured by a Lien) levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(ii) execute and deliver, and have recorded or filed, any and all agreements, documents, instruments and papers reasonably necessary to evidence the Collateral Agent's and the other Secured Parties' security interest in any Collateral, including with respect to any Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby, and take any other action to evidence and maintain the Collateral Agent's and the other Secured Parties' security interest in any Collateral and the perfection and priority thereof;

(iii) execute, in connection with any sale provided for in Section 7.04 or Section 7.05, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral;

(iv) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Collateral Agent or as the Collateral Agent shall direct; (B) take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Account, Instrument, General Intangible, Chattel Paper or Payment Intangible or with respect to any other Collateral, and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Collateral Agent for the purpose of collecting any and all such moneys due under any Account, Instrument or General Intangible or with respect to any other Collateral whenever payable; (C) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (D) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (E) receive, change the address for delivery, and open and dispose of mail addressed to any Grantor, and to execute, assign and indorse negotiable and other instruments for the payment of money, documents of title or other evidences of payment, shipment or storage for any form of Collateral on behalf of and in the name of any Grantor; (F) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (G) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (H) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate; (I) assign and/or license any Copyright, Patent or Trademark, throughout the world for such term or terms, on such conditions, and in such manner, as the Collateral Agent shall in its sole discretion determine; and (J) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's and the other Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do; and

(v) cure any default by any Grantor, or maintain any of the Grantor's rights, interests or titles, under any contract, license or permit (including any Assigned Agreement) including by providing notices of extensions or any other notices to counterparties under the Material Contracts.

Anything in this Section 8.01(a) to the contrary notwithstanding, the Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 8.01(a) (other than Section 8.01(a)(i), Section 8.01(a)(ii) or Section 8.01(a)(v)) unless an Event of Default shall have occurred and be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein within the applicable grace periods, the Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The reasonable expenses and costs of the Collateral Agent incurred in connection with actions undertaken as provided in this Section 8.01, together with interest thereon at the rate applicable to ABR Loans, or during the continuance of an Event of Default, the Post-Default Rate from the date of payment by the Collateral Agent to the date reimbursed by the relevant Grantor, shall be payable jointly and severally by such Grantor to the Collateral Agent on demand, and shall constitute Secured Obligations hereunder.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue and in compliance hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released. Each Grantor hereby acknowledges and agrees that the Collateral Agent shall have no fiduciary duties to such Grantor in acting pursuant to this power of attorney and each Grantor hereby waives any claims or rights of a beneficiary of a fiduciary relationship hereunder.

Section 8.02 Duty of Collateral Agent. The Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Collateral Agent deals with similar property for its own account and shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which comparable secured parties accord comparable collateral. Neither the Collateral Agent, any other Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Collateral Agent and the other Secured Parties hereunder are solely to protect the Collateral Agent's and the other Secured Parties' interests in the Collateral and shall not impose any duty upon the Collateral Agent or any other Secured Party to exercise any such powers. The Collateral Agent and the other Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct, in each case, as determined by a final and non-appealable judgment in a court of competent jurisdiction. To the fullest extent permitted by applicable law, the Collateral Agent shall be under no duty whatsoever to make or give any presentment, notice of dishonor, protest, demand for performance, notice of non-performance, notice of intent to accelerate, notice of acceleration, or other notice or demand in connection with any Collateral or the Secured Obligations, or to take any steps necessary to preserve any rights against any Grantor or other Person or ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not it has or is deemed to have knowledge of such matters. Each Grantor, to the extent permitted by applicable law, waives any right of marshaling in respect of any and all Collateral, and waives any right to require the Collateral Agent or any other Secured Party to proceed against any Grantor or other Person, exhaust any Collateral or enforce any other remedy which the Collateral Agent or any other Secured Party now has or may hereafter have against each Grantor, any Grantor or other Person.

Section 8.03 Filing of Financing Statements. Pursuant to the UCC and any other applicable law, each Grantor authorizes the Collateral Agent, its counsel or its representative, at any time and from time to time, to file or record financing statements, continuation statements, amendments thereto and other filing or recording documents or instruments with respect to the Collateral without the signature of such Grantor in such form and in such offices as the Collateral Agent reasonably determines appropriate to perfect or maintain the perfection of the security interests of the Collateral Agent under this Agreement. Additionally, each Grantor authorizes the Collateral Agent, its counsel or its representative, at any time and from time to time, to file or record such financing statements that describe the collateral covered thereby as "all assets of the Grantor", "all personal property of the Grantor" or words of similar effect. In no event shall the above authorizations be deemed to be obligations. Nothing herein shall relieve any Grantor of its primary obligation to file such financing statements or impose a duty on the Administrative Agent or the Collateral Agent to file such financing statements.

Section 8.04 Authority of Collateral Agent. Each Grantor acknowledges that the rights and responsibilities of the Collateral Agent under this Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Collateral Agent and the other Secured Parties, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Grantors, the Collateral Agent shall be conclusively presumed to be acting as agent for the Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

ARTICLE IX
SUBORDINATION OF INDEBTEDNESS

Section 9.01 Subordination of All Grantor Claims. As used herein, the term "Grantor Claims" shall mean all debts and obligations of any Grantor to any other Grantor or any Subsidiary of Parent, whether such debts and obligations now exist or are hereafter incurred or arise, or whether the obligation of the debtor thereon be direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or obligations be evidenced by note, contract, open account, or otherwise, and irrespective of the Person or Persons in whose favor such debts or obligations may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by. After the occurrence and during the continuation of an Event of Default, no Grantor shall receive or collect, directly or indirectly, from any obligor in respect thereof any amount upon the Grantor Claims.

Section 9.02 Claims in Bankruptcy. In the event of receivership, bankruptcy, reorganization, arrangement, debtor's relief or other insolvency proceedings involving any Grantor, any other Loan Party, the Collateral Agent on behalf of the Secured Parties shall have the right to prove their claim in any proceeding, so as to establish their rights hereunder and receive directly from the receiver, trustee or other court custodian, dividends and payments which would otherwise be payable upon Grantor Claims. Each Grantor hereby assigns such dividends and payments to the Collateral Agent for the benefit of the Secured Parties for application against the Secured Obligations as provided under Section 10.03 of the Credit Agreement. Should any Agent or Secured Party receive, for application upon the Secured Obligations, any such dividend or payment which is otherwise payable to any Grantor, and which, as between such Grantor, shall constitute a credit upon the Grantor Claims, then upon Payment in Full, the intended recipient shall become subrogated to the rights of the Collateral Agent and the other Secured Parties to the extent that such payments to the Collateral Agent and the other Secured Parties on the Grantor Claims have contributed toward the liquidation of the Secured Obligations, and such subrogation shall be with respect to that proportion of the Secured Obligations which would have been unpaid if the Collateral Agent and the other Secured Parties had not received dividends or payments upon the Grantor Claims.

Section 9.03 Payments Held in Trust. In the event that notwithstanding Section 9.01 and Section 9.02, any Grantor should receive any funds, payments, claims or distributions that are prohibited by such Sections, then it agrees: (a) to hold in trust for the Collateral Agent and the other Secured Parties an amount equal to the amount of all funds, payments, claims or distributions so received segregated from the other funds of such Grantor and (b) that it shall upon receipt, pay them promptly to the Collateral Agent in the exact form agreed (duly endorsed by such Grantor to the Collateral Agent, if required), for the benefit of the Secured Parties; and each Grantor covenants promptly to pay the same to the Collateral Agent.

Section 9.04 Liens Subordinate. Each Grantor agrees that, until Payment in Full, any Liens securing payment of the Grantor Claims shall be and remain inferior and subordinate to any Liens securing payment of the Secured Obligations, regardless of whether such encumbrances in favor of such Grantor, the Collateral Agent or any other Secured Party presently exist or are hereafter created or attach. Prior to Payment in Full, without the prior written consent of the Collateral Agent, no Grantor shall (a) exercise or enforce any creditor's right it may have against any debtor in respect of the Grantor Claims, or (b) foreclose, repossess, sequester or otherwise take steps or institute any action or proceeding (judicial or otherwise, including without limitation the commencement of or joinder in any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any Lien held by it.

Section 9.05 Notation of Records. All promissory notes and all accounts receivable ledgers or other evidence of the Grantor Claims accepted by or held by any Grantor shall contain a specific written notice thereon that the indebtedness evidenced thereby is subordinated under the terms of this Agreement.

ARTICLE X
MISCELLANEOUS

Section 10.01 Waiver. No failure on the part of the Collateral Agent or any other Secured Party to exercise and no delay in exercising, and no course of dealing with respect to, any right, remedy, power or privilege under any of the Secured Agreements shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any of the Secured Agreements preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. The exercise by the Collateral Agent of any one or more of the rights, powers and remedies herein shall not be construed as a waiver of any other rights, powers and remedies, including, any rights of set-off.

Section 10.02 Notices. All notices and other communications provided for herein shall be given in the manner and subject to the terms of Section 12.01 of the Credit Agreement; provided that any such notice, request or demand to or upon any Guarantor shall be addressed to such Guarantor at its notice address set forth on Schedule 1.

Section 10.03 Payment of Expenses, Indemnities, Etc.

(a) Each Grantor, jointly and severally, agrees to pay or promptly reimburse the Collateral Agent and each other Secured Party for all reasonable out-of-pocket advances, charges, costs and expenses, including, without limitation, (i) all out-of-pocket costs and expenses of holding, preparing for sale and selling, collecting or otherwise realizing upon the Collateral and all reasonable and documented out-of-pocket attorneys' fees, legal expenses and court costs incurred by any Secured Party in connection with the exercise of its respective rights and remedies hereunder, (ii) any out-of-pocket advances, charges, costs and expenses that may be incurred in any effort to enforce any of the provisions of this Agreement or any obligation of any Grantor in respect of the Collateral or (iii) in connection with (A) the preservation of the Lien of, or the rights of the Collateral Agent or any other Secured Party under this Agreement, (B) any actual or attempted sale, lease, disposition, exchange, collection, compromise, settlement or other realization in respect of, or care of, the Collateral, including all such costs and expenses incurred in any bankruptcy, reorganization, workout or other similar proceeding, or (C) collecting against such Grantor under the guarantee contained in Article II or otherwise enforcing or preserving any rights under this Agreement and the other Secured Agreements to which such Grantor is a party.

(b) Each Grantor jointly and severally agrees to pay, and to save the Collateral Agent and the other Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement; provided that each Grantor shall have no obligation to hold the Collateral Agent harmless from its gross negligence or willful misconduct.

(c) Each Grantor jointly and severally agrees to pay, and to save the Collateral Agent and the other Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent any Grantor would be required to do so pursuant to Section 12.03 of the Credit Agreement; provided that each Grantor shall have no obligation to hold the Collateral Agent harmless from its gross negligence or willful misconduct.

(d) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Security Documents. All amounts for which any Grantor is liable pursuant to this Section 10.03 shall be due and payable by such Grantor to the Secured Parties not later than ten (10) Business Days after written demand therefor.

Section 10.04 Amendments in Writing; Conflicts. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 12.02 of the Credit Agreement. In the event of a conflict between any term or provision of this Agreement and the Credit Agreement, the Credit Agreement shall control.

Section 10.05 Successors and Assigns. This Agreement shall be binding upon the successors and permitted assigns of each Grantor and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their successors and permitted assigns; provided that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Collateral Agent and any such assignment made without such consent shall be void *ab initio*.

Section 10.06 Invalidity. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 10.07 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by email or facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

Section 10.08 Survival; Reinstatement. The obligations of the parties under Section 10.03 shall survive notwithstanding Payment in Full. To the extent that any payments on the Secured Obligations or proceeds of any Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Collateral Agent's and the other Secured Parties' Liens, security interests, rights, powers and remedies under this Agreement and each Security Document shall continue in full force and effect. In such event, each Security Document shall be automatically reinstated and each Grantor shall take such action as may be reasonably requested by the Collateral Agent and the other Secured Parties to effect such reinstatement.

Section 10.09 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 10.10 No Oral Agreements. The Secured Agreements embody the entire agreement and understanding between the parties and supersede all other agreements and understandings between such parties relating to the subject matter hereof and thereof. **THIS AGREEMENT AND THE OTHER SECURED AGREEMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES HERETO AND THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

Section 10.11 Governing Law; Submission to Jurisdiction.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) **SECTIONS 12.09(B)-(D) OF THE CREDIT AGREEMENT (JURISDICTION CONSENT TO SERVICE OF PROCESS; WAIVER OF JURY TRIAL) ARE HEREBY INCORPORATED HEREIN BY REFERENCE AND SHALL APPLY TO THIS AGREEMENT *MUTATIS MUTANDIS***.

Section 10.12 Acknowledgments.

(a) Each Grantor hereby acknowledges that:

(i) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Secured Agreements to which it is a party;

(ii) neither the Collateral Agent nor any other Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Secured Agreements, and the relationship between the Grantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(iii) no joint venture is created hereby or by the other Secured Agreements or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Grantors and the Lenders.

(b) Each of the parties hereto specifically agrees that it has a duty to read this Agreement and the Security Documents and agrees that it is charged with notice and knowledge of the terms of this Agreement and the Security Documents; that it has in fact read this Agreement and is fully informed and has full notice and knowledge of the terms, conditions and effects of this Agreement; that it has been represented by independent legal counsel of its choice throughout the negotiations preceding its execution of this Agreement and the Security Documents; and has received the advice of its attorney in entering into this Agreement and the Security Documents; and that it recognizes that certain of the terms of this Agreement and the Security Documents result in one party assuming the liability inherent in some aspects of the transaction and relieving the other party of its responsibility for such liability. **EACH PARTY HERETO AGREES AND COVENANTS THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY EXCULPATORY PROVISION OF THIS AGREEMENT AND THE SECURITY DOCUMENTS ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT THE PROVISION IS NOT "CONSPICUOUS."**

(c) Each Grantor warrants and agrees that each of the waivers and consents set forth in this Agreement are made voluntarily and unconditionally after consultation with outside legal counsel and with full knowledge of their significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights which such Grantor otherwise may have against the Borrower, any other Grantor, the Secured Parties or any other Person or against any collateral. If, notwithstanding the intent of the parties that the terms of this Agreement shall control in any and all circumstances, any such waivers or consents are determined to be unenforceable under applicable law, such waivers and consents shall be effective to the maximum extent permitted by law.

Section 10.13 Set-Off. Section 12.08 of the Credit Agreement is hereby incorporated herein by reference and shall apply to this Agreement *mutatis mutandis*.

Section 10.14 Releases.

(a) Release Upon Payment in Full. If Payment in Full has occurred, the Liens and security interests of the Collateral Agent in the Collateral granted hereby shall be automatically released and the Collateral Agent, at the written request and sole expense of the Borrower, will promptly deliver any documents necessary, or reasonably requested by a Loan Party in writing, to evidence the release, reassignment and transfer of the Collateral to the Loan Parties.

(b) Further Assurances. If any of the Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Credit Agreement, then the Collateral Agent, at the request and sole expense of such Grantor, shall promptly execute and deliver to such Grantor all releases or other documents reasonably necessary or desirable (as requested in writing by such Grantor) for the release of the Liens created hereby on such Collateral; provided that the Borrower shall have delivered to the Collateral Agent, at least five (5) Business Days prior to the date of the proposed release (or such shorter time period as the Collateral Agent may agree), a written request for release identifying the relevant Collateral, together with a certificate by the Borrower stating (i) that such transaction is in compliance with this Agreement and the other Secured Agreements and (ii) no Collateral other than the Collateral required to be released is being released.

Section 10.15 Acceptance. Each Grantor hereby expressly waives notice of acceptance of this Agreement, acceptance on the part of the Collateral Agent and the other Secured Parties being conclusively presumed by their request for this Agreement and delivery of the same to the Collateral Agent.

[*Signature pages follow.*]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

BORROWER: **CLEAN ENERGY**

By: /s/ Robert M. Vreeland
Name: Robert M. Vreeland
Title: Chief Financial Officer

PARENT: **CLEAN ENERGY FUELS CORP.**

By: /s/ Robert M. Vreeland
Name: Robert M. Vreeland
Title: Chief Financial Officer

OTHER GRANTORS:

CLEAN ENERGY & TECHNOLOGIES, LLC
BLUE ENERGY LIMITED LLC
BLUE ENERGY GENERAL
TRANSTAR ENERGY COMPANY LP
BLUE FUELS GROUP LP
CLEAN ENERGY TEXAS LNG, LLC
CLEAN ENERGY LNG LLC
NG ADVANTAGE LLC
CLEAN ENERGY RENEWABLE FUELS, LLC
CLEAN ENERGY RENEWABLE DEVELOPMENT, LLC
CLEAN ENERGY FINANCE
CLEAN ENERGY LOS ANGELES, LLC
SOUTH FORK FUNDING, LLC
CLEAN ENERGY SOUTH FORK HOLDINGS, LLC
SOUTH FORK RENEWABLE ENERGY, LLC
O'BRYAN GRAIN RENEWABLE ENERGY, LLC
SOUTH FORK OHIO RENEWABLE ENERGY, LLC
CLEAN ENERGY REAL ESTATE, LLC
CLEAN ENERGY FUELING SERVICES CORP.
CLEAN ENERGY RENEWABLE OPERATIONS, LLC
CLNE PLASMAFLOW HOLDINGS, LLC

By: /s/ Robert M. Vreeland
Name: Robert M. Vreeland
Title: Chief Financial Officer

Acknowledged and Agreed to as of the date hereof by:

COLLATERAL AGENT:

RIVERSTONE CREDIT MANAGEMENT LLC

By: Riverstone Equity Partners LP, its sole member

By: Riverstone Holdings LLC, its general partner

By: /s/ Danial Flannery
Name: Daniel Flannery
Title: Managing Director

Exhibit 99.1

Press Release

Clean Energy Announces Sustainability-Linked Financing with Riverstone Credit Partners to Fund RNG Growth

Newport Beach, Calif. – December 28, 2022 – Clean Energy Fuels Corp. (Nasdaq: CLNE), the largest provider of the cleanest fuel for the transportation market, today announced that it entered into a four-year $150 million sustainability-linked senior secured term loan with Riverstone Credit Partners L.P. ("Riverstone Credit Partners"), a dedicated credit investment platform focused on energy, power, decarbonization, and infrastructure managed by Riverstone Holdings LLC ("Riverstone").

This financing provides Clean Energy with additional capital to execute its renewable natural gas (RNG) growth strategy as demand for RNG fuel rapidly rises. Clean Energy's growth strategy includes the development of negative carbon intensity RNG projects and construction of new RNG fueling stations for transportation sector customers. Proceeds from the term loan will be used, in part, to help fund the company's rapid expansion of RNG projects at dairies, which capture fugitive methane and turn it into a fuel made entirely from organic waste and reduces carbon emissions by an average of 300% versus diesel. Demand for the fuel continues to grow as customers like Republic Services, WM, UPS, LA Metro and New York City MTA continue to expand their RNG fleets.

"As we articulated at the beginning of the year, we have big plans to increase our supply of RNG from dairies because when it ends up in the tank of a heavy-duty truck or a transit bus, it is rated cleaner than any other alternative in the marketplace," said Andrew J. Littlefair, president and CEO of Clean Energy. "Our joint ventures with bp and TotalEnergies are having great success. We are currently constructing multiple RNG projects at dairies around the country with a healthy pipeline of other projects. This additional financing will allow us to stay on this rapid pace of development."

"Clean Energy pioneered RNG as a vehicle fuel and continues to be the largest provider of RNG for the transportation industry throughout North America. We are thrilled to partner with them on their quest to deliver fully zero-carbon RNG by 2025," said Daniel Flannery, Managing Director at Riverstone.

Clean Energy obtained a second party opinion from Sustainable Fitch that considered the transaction to be aligned with the five pillars of the Loan Syndications and Trading Association's Sustainability-Linked Loan Principles.

For more information about this transaction, see the 8-K filing that will be accessible on the company's website.

About Clean Energy

Clean Energy Fuels Corp. is the country's largest provider of the cleanest fuel for the transportation market. Our mission is to decarbonize transportation through the development and delivery of renewable natural gas (RNG), a sustainable fuel derived from organic waste. Clean Energy allows thousands of vehicles, from airport shuttles to city buses to waste and heavy-duty trucks, to reduce their amount of climate-harming greenhouse gas. We operate a vast network of fueling stations across the U.S. and Canada. Visit www.cleanenergyfuels.com and follow @ce_renewables on Twitter.

About Riverstone

Founded in 2000, Riverstone is an investment firm focused on executing private equity and credit investments in energy, power, decarbonization and infrastructure. To date, the firm has raised approximately $43 billion of capital, which it has deployed across its platform to over 200 portfolio companies since inception. For more information about Riverstone, please visit www.riverstonellc.com.

Safe Harbor Statement

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including statements about, among other things, the continued growth in the demand for RNG; our ability to execute on our overall RNG growth strategy; our ability to realize and fund our rapid expansion of multiple RNG projects at dairies around the country; the continued expansion of RNG fleets at customers such as Republic Services, WM, UPS, LA Metro and New York City MTA; and our quest to deliver fully zero-carbon RNG by 2025. Actual results and the timing of events could differ materially from those anticipated in these forward-looking statements. The forward-looking statements made herein speak only as of the date of this press release and, unless otherwise required by law, Clean Energy undertakes no obligation to publicly update such forward-looking statements to reflect subsequent events or circumstances. Additionally, the reports and other documents Clean Energy files with the Securities and Exchange Commission (available at www.sec.gov), including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022 that the Company filed with the Securities and Exchange Commission on November 8, 2022, contain additional information and risk factors that may cause actual results to differ materially from the forward-looking statements contained in this press release.

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