

EXHIBIT B

SENIOR SECURED SUPERPRIORITY POSTPETITION

CREDIT AGREEMENT

dated as of [●], 2016

among

Gerald H. Schiff, not individually, but in his capacity as

CHAPTER 11 TRUSTEE

of the bankruptcy estate of

BENNU TITAN LLC,

a Debtor under Chapter 11 of the Bankruptcy Code,

as the Borrower,

CLMG CORP.,

as Agent,

and

BEAL BANK USA,

as Lender

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EXHIBITS AND SCHEDULES

Exhibit A	Form of Note
Exhibit B	Form of Borrowing Request
Schedule 5.06	Insurance

THIS SENIOR SECURED SUPERPRIORITY POSTPETITION CREDIT AGREEMENT, dated as of [●], 2016 (this “**Agreement**”), is by and among Gerald H. Schiff, not individually, but in his capacity as Chapter 11 Trustee (the “**Borrower**”) of the bankruptcy estate of Bennu Titan LLC (f/k/a ATP Titan LLC), a Delaware limited liability company (the “**Debtor**”), Beal Bank USA, as the lender (the “**Lender**”), and CLMG Corp., as agent for the Lender (in such capacity, together with its successors in such capacity, the “**Agent**”). Terms used but not defined herein (including in this introductory paragraph) shall have the meanings given to them in Section 1.01.

RECITALS

WHEREAS, Bennu Oil & Gas, LLC (“**BOG**”), a Delaware limited liability company (as successor in interest to ATP Oil and Gas Corporation), Titan Holdco (as successor in interest to ATP Titan Holdco LLC) and the Debtor previously entered into that certain Contribution Agreement, dated as of September 24, 2010 (the “**Contribution Agreement**”), pursuant to which BOG contributed to Titan Holdco, and Titan Holdco contributed to the Debtor, a multi-column, deep draft, floating drilling and production platform now commonly known as the “Bennu Titan” (“**Bennu Titan**” or the “**Titan Platform**”), certain moorings and related equipment associated with the Bennu Titan (the “**Moorings**”), certain pipelines and related rights of way and equipment (the “**Pipeline Assets**”), certain rights under contracts related to the Bennu Titan, Moorings and Pipeline Assets, and other related rights, permits, licenses, spare parts, equipment and other property, in each case as more fully described on Exhibit A to the Contribution Agreement (collectively, the “**Titan Assets**”);

WHEREAS, the Debtor, the Prepetition Lender and the Prepetition Agent entered into a credit facility (the “**Prepetition Facility**”) pursuant to the terms of that certain Term Loan Agreement, dated as of September 24, 2010 (as amended on March 11, 2011, September 29, 2011, August 15, 2012, November 1, 2013 and April 25, 2014, and as further amended, modified and/or supplemented in accordance with the terms hereof and thereof, the “**Prepetition Term Loan Agreement**”);

WHEREAS, the obligations of the Debtor under the Prepetition Term Loan Agreement are secured by all properties of the Debtor, including the Titan Assets, and by Titan Holdco’s pledge of its membership interests in the Debtor;

WHEREAS, on August 11, 2016 (the “**Petition Date**”), the Prepetition Agent and the Prepetition Lender declared any and all amounts under the Prepetition Facility immediately due and payable and commenced an involuntary case (the “**Chapter 11 Case**”) against the Debtor under Chapter 11 of Title 11 of the United States Code entitled “Bankruptcy” (as now or hereafter in effect, or any successor thereto, the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”);

WHEREAS, on September 9, 2016, the Bankruptcy Court entered an order for relief in the Chapter 11 Case [D.I. 7];

WHEREAS, on November 1, 2016, the Bankruptcy Court entered an order directing the appointment of a chapter 11 trustee in the Chapter 11 Case [D.I. 87];

WHEREAS, on November 23, 2016, the Bankruptcy Court entered an order appointing Gerald H. Schiff as the chapter 11 trustee in the Chapter 11 Case [D.I. 103];

WHEREAS, the Borrower has requested that the Lender provide a senior secured superpriority postpetition credit facility, pursuant to the terms hereof and the other Loan Documents, in an aggregate principal amount not to exceed \$25,000,000 (the “**Postpetition Facility**”) and the proceeds of which shall be used solely for the purposes permitted under Section 5.10;

WHEREAS, the Lender is willing to make certain postpetition loans at the request of the Borrower in an aggregate amount at any time outstanding of up to the amount of the Commitment under the Postpetition Facility upon the terms and conditions set forth herein;

WHEREAS, the Borrower acknowledges that the Debtor will receive substantial direct and indirect benefits by reason of the making of loans and other financial accommodations to the Borrower as provided in this Agreement; and

WHEREAS, to provide security for the repayment of all obligations of any kind of the Borrower hereunder and under the other Loan Documents, including the Loans, the Borrower, on behalf of the Debtor, will provide to the Agent (for the benefit of the Secured Parties) the Liens, status and protections set forth in Section 2.14, Section 4.09, the Interim Order and the Final Order.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the Borrower, the Agent and the Lender, intending to be legally bound, agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING MATTERS

Section 1.01 Certain Defined Terms. In addition to the terms defined above, as used in this Agreement, the following terms have the meanings specified below:

“**Acceptable Broker**” means a broker engaged by the Borrower in accordance with Section 5.13(a).

“**Acceptable Sale Process**” means that, within [●] days of entry of the Interim Order, (a) the Borrower shall have filed a motion (the “**Sale Motion**”) pursuant to Section 363 of the Bankruptcy Code, in form and substance satisfactory to the Agent, to sell all or substantially all of the Borrower’s assets and property of the Borrower (a “**Sale**”), as provided by and in accordance with the Bid Procedures and (b) the Borrower shall have filed a motion (the “**Bid Procedures Motion**”), in form and substance satisfactory to the Agent, seeking approval of the Bid Procedures, which shall include the right of the Agent and the Prepetition Agent to Credit Bid in connection with any sale of Collateral or Prepetition Collateral (as the case may be) and which, for the avoidance of doubt, shall otherwise be in form and substance satisfactory to the Agent. As used in the Loan Documents, “Acceptable Sale Process” refers, as the context may require, to both the occurrence of (a) and (b) in this definition and to the approved process for conducting an Auction and Sale set forth in the Sale Motion and the Bid Procedures Motion.

“**Additional Loans**” has the meaning given to it in Section 2.04(b).

“**Adjusted LIBO Rate**” means an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the LIBO Rate multiplied by the Statutory Reserve Rate.

“**Affiliate**” means, with respect to a specified Person, 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, where “*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, and “*controlling*” and “*controlled*” have correlative meanings.

“**Agent**” has the meaning given to it in the introduction to this Agreement.

“**Agreement**” has the meaning given to it in the introduction to this Agreement.

“**Applicable Margin**” means 8.00%.

“**Approved Budget**” means the budget for the Borrower comprised, collectively but without duplication, of all line items that are set forth in the Initial Approved Budget and any Supplemental Approved Budget.

“**Approved Sale**” has the meaning specified in Section 5.13(g)

“**Assignment and Assumption**” means an assignment and assumption entered into by the Lender and an assignee, and accepted by the Agent, in the form and substance satisfactory to the Agent.

“**Auction**” means the auction of all or substantially all of the assets of the Debtor to be conducted pursuant to the Bid Procedures.

“**Avoidance Actions**” mean claims and causes of action under Chapter 5 of the Bankruptcy Code and other similar laws for preferences, fraudulent conveyances, and other avoidance power claims.

“**Bankruptcy Code**” has the meaning given to it in the recitals to this Agreement.

“**Bankruptcy Court**” has the meaning given to it in the recitals to this Agreement.

“**Bennu Titan**” has the meaning given to it in the recitals to this Agreement.

“**Bid Procedures**” means the procedures and applicable deadlines in connection with the Sale.

“**Bid Procedures Motion**” has the meaning specified in the definition of “Acceptable Sale Process”.

“**Bid Procedures Order**” means an order to be entered by the Bankruptcy Court, in form and substance satisfactory to the Agent, approving the Bid Procedures.

“**Board**” means the Board of Governors of the Federal Reserve System of the United States of America or any successor Governmental Authority.

“**BOG**” has the meaning given to it in the recitals to this Agreement.

“**Borrower**” has the meaning given to it in the introduction to this Agreement.

“**Borrower’s Professional Fees**” has the meaning specified in Section 6.05(f).

“**Borrowing Request**” means a request by the Borrower for Additional Loans in accordance with Section 2.04.

“**Borrowing Request Amount**” means the amount of the Additional Loan requested by the Borrower in the applicable Borrowing Request.

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which national banks are authorized or required by Law to remain closed; provided, however, for the purposes of determining the LIBO Rate, the term “**Business Day**” means any day that is not a Saturday, Sunday or other day on which banks are not open for dealings in dollar deposits in the London interbank market.

“**Capital Expenditures**” means, in respect of any Person, for any period, the aggregate (determined without duplication) of all costs that are capital in nature and any other expenditures that are capitalized on the balance sheet of that Person in accordance with GAAP.

“**Capital Leases**” means, in respect of any Person, all leases that shall have been, or should have been, in accordance with GAAP, recorded as capital leases on the balance sheet of the Person liable (whether contingent or otherwise) for the payment of rent thereunder.

“**Carve-Out**” has the meaning specified in the Interim Order and, upon entry thereof, the Final Order.

“**Cash Collateral**” means all “Cash Collateral” as defined by Section 363 of the Bankruptcy Code, all deposits subject to setoff and all cash arising from the collection or other conversion to cash of property of the Borrower in which the Prepetition Lenders or Prepetition Agent has a security interest, Lien or mortgage, whether such security interests, liens or mortgages existed as of the commencement of the Chapter 11 Case or arise thereafter pursuant to an Order, and whether the property converted to cash existed as of the commencement of the Chapter 11 Case or arose or was generated thereafter, including, without limitation, all proceeds from the sale or other disposition of the Prepetition Collateral or Collateral.

“**Casualty Event**” means any loss, casualty or other insured damage to, or any nationalization, taking under power of eminent domain or by condemnation or similar proceeding of, any of the Properties.

“**Change in Law**” means (a) the adoption of any Law, rule or regulation after the date of this Agreement, (b) any change in any Law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by the Lender (or, for purposes of **Section 2.10(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.

“**Chapter 11 Case**” has the meaning given to it in the recitals to this Agreement.

“**Closing**” means the occurrence of the advance of the Interim Order Amount under this Agreement.

“**Code**” means the Internal Revenue Code of 1986.

“**Collateral**” means all property and interests in property of the Borrower, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document including, without limitation, the Titan Assets; provided that the Collateral shall not include Avoidance Actions but shall, upon entry of a Final Order, include the proceeds of Avoidance Actions, which shall be available to pay any administrative claim held by the Prepetition Agent and/or any Prepetition Lender in respect of any obligations under the Prepetition Loan Documents and by the Agent and/or the Lender in respect of the Postpetition Facility.

“**Commitment**” means, as to the Lender, an amount equal to \$[●].

“**Contribution Agreement**” has the meaning given to it in the recitals to this Agreement.

“**Credit Bid**” means any credit bid by the Agent (on behalf of the Secured Parties) as set forth in Section 363(k) of the Bankruptcy Code in respect of the Obligations and/or the Prepetition Agent (on behalf of the Prepetition Secured Parties) in respect of the Prepetition Facility Obligations.

“**Debtor**” has the meaning given to it in the recitals to this Agreement

“**Default**” means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Environmental Laws**” means any and all Laws pertaining in any way to health, safety, the environment, the preservation or reclamation of natural resources, or the management, Release or threatened Release of any Hazardous Materials, in effect in any and all jurisdictions in which the Debtor is conducting, or at any time has conducted, business, or where the Properties are or have been located, used or operated, including the Oil Pollution Act of 1990, the Clean Air Act, the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980, the Federal Water Pollution Control Act, the

Occupational Safety and Health Act of 1970, the Resource Conservation and Recovery Act of 1976, the Safe Drinking Water Act, the Toxic Substances Control Act, the Superfund Amendments and Reauthorization Act of 1986, the Hazardous Materials Transportation Law and other environmental conservation or protection Laws.

“Environmental Permit” means any Permit required by or issued under any Environmental Law.

“Equity Interests” of any Person means any and all shares, units, interests, rights to purchase, warrants, options, participation or other equivalents of or interests in (however designated) equity of such Person, including any preferred stock, but excluding any debt securities convertible into equity.

“Event of Default” has the meaning given to it in Section 7.01.

“Excepted Liens” means: (a) (i) Liens for Prepetition Taxes, assessments or other governmental charges or levies (provided that the enforcement and collection of the same are subject to the automatic stay in the Chapter 11 Case), and (ii) Liens for Taxes that are not delinquent or that are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP; (b) landlord’s liens, operators’, vendors’, carriers’, warehousemen’s, repairmen’s, mechanics’, suppliers’, workers’, materialmen’s, customs authorities’ or other like Liens arising by operation of Law in the ordinary course of business (but not including any such Liens arising in connection with the fabrication or installation of the Titan Assets) each of which is in respect of obligations that are not delinquent or that are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP (provided that the enforcement and collection of the same are subject to the automatic stay in the Chapter 11 Case or, in respect of Postpetition obligations, such obligations are not overdue for a period of more than thirty (30) calendar days or are being contested in good faith by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person); (c) 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, (d) Liens arising solely by virtue of any statutory or common-law provision 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 the Borrower to provide collateral to the depository institution; (e) the Liens granted in favor of the Secured Parties securing the Postpetition Obligations; and (f) Liens securing the Prepetition Facility Obligations; provided, however, that a Lien described in clauses (a), (b), (c) and (d) is not an **“Excepted Lien”** from and after the time (if any) that foreclosure or execution on the Lien occurs, a court authorizes such a foreclosure or execution, or formal steps are taken under nonjudicial or executory process to foreclose or execute on the Lien or other action is taken that, in either case, materially interferes with the ownership, possession, use or operation of the property subject to the Lien; provided, further, that no intention to subordinate the first-priority Lien granted in favor of the Secured Parties is to be hereby implied or expressed by the permitted existence of any other such Excepted Liens.

“Excluded Taxes” means, with respect to the Agent, the Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower or under any Loan Document, (a) income or franchise Taxes imposed on (or measured by) its net income by any Governmental Authority under the Laws of which the recipient is organized or in which its principal office is located or, in the case of the Lender, in which its applicable lending office is located and (b) any branch profits Taxes imposed by any Governmental Authority or any similar Tax imposed by any other jurisdiction in which the Borrower is located.

“**Existing Liens**” has the meaning specified in Section 2.14(a)(iii).

“**Final Order**” means, collectively, the final order or orders entered by the Bankruptcy Court with respect to the Borrower in the Chapter 11 Case after a final hearing under Bankruptcy Rule 4001(c)(2), authorizing and approving the Postpetition Facility and the terms of this Agreement and the other Loan Documents (including the payment of interest, fees, costs and expenses hereunder and thereunder) and granting the Liens, status and protections set forth in Section 2.14 and Section 4.09 and provided for in the Security Documents, which order or judgment is in effect and not stayed and as to which the time to appeal, petition for certiorari, or move for re-argument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for re-argument or rehearing shall then be pending, or, if pending, no stay pending appeal shall have been granted, as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof.

“**Final Order Entry Date**” means the date on which the Final Order (which, for the purpose of this definition, shall be determined without regard to whether or not the time to appeal, petition for certiorari, or move for re-argument or rehearing has expired) shall have been entered on the docket of the Bankruptcy Court.

“**Funding Date**” means the date on which any advance of the Loans pursuant to Section 2.03 occurs.

“**GAAP**” means generally accepted accounting principles in the United States of America as in effect from time to time subject to the terms and conditions set forth in Section 1.03.

“**Governmental Authority**” means the government of the United States of America, any other nation, or any political subdivision of either, 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.

“**Hazardous Material**” means any substance regulated or as to which liability might arise under any applicable Environmental Law 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,” “solid 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, petroleum substances, natural gas, oil, oil and gas waste, crude oil, and any components, fractions, or derivatives thereof; and (c) radioactive materials, explosives, asbestos or asbestos containing materials, polychlorinated biphenyls, radon, infectious or medical wastes.

“**Highest Lawful Rate**” means, with respect to the 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 Note or on other Obligations under Laws applicable to the Lender that are presently in effect or, to the extent allowed by Law, under such applicable Laws that in the future may be in effect and which allow a higher maximum nonusurious interest rate than applicable Laws allow as of the date of this Agreement.

“**Indebtedness**” means, for any Person, any of the following or, if applicable, the sum of the following (without duplication): (a) all obligations for borrowed money or evidenced by bonds, bankers’ acceptances, debentures, notes or other similar instruments; (b) all obligations (whether contingent or otherwise) in respect of letters of credit, surety or other bonds and similar instruments; (c) all accrued expenses, liabilities or other obligations of such Person to pay the deferred purchase price of property or services; (d) all obligations under Capital Leases; (e) all obligations under Synthetic Leases; (f) all Indebtedness (as defined in the other clauses of this definition) of others secured by (or for which the holder of that Indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien on any property

of that Person, whether or not that Indebtedness is assumed by that Person; (g) all Indebtedness (as defined in the other clauses of this definition) of others guaranteed by that Person or in which that Person otherwise assures a creditor against loss of the Indebtedness (howsoever that assurance shall be made) to the extent of the lesser of the amount of that Indebtedness and the maximum stated amount of that guarantee or assurance against loss; (h) all obligations or undertakings of that Person to maintain or cause to be maintained the financial position or covenants of others or to purchase the Indebtedness or property of others; (i) obligations to deliver commodities, goods or services, including hydrocarbons, in consideration of one or more advance payments, other than gas balancing arrangements in the ordinary course of business; (j) obligations to pay for goods or services even if those goods or services are not actually received or utilized by that Person; (k) any Indebtedness (as defined in the other clauses of this definition) of a partnership for which that Person is liable either by agreement, by operation of Law or by a Law but only to the extent of that liability; and (l) the undischarged balance of any production payment created by that Person or for the creation of which that Person directly or indirectly received payment. The Indebtedness of any Person shall include all obligations of that Person of the character described above to the extent that Person remains legally liable in respect of that obligation notwithstanding that any such obligation is not included as a liability of that Person under GAAP.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitee” has the meaning given to it in Section 9.03(b).

“Initial Approved Budget” has the meaning given to it in Section 3.01(m).

“Interest Period” shall mean, as to any Loan, the period commencing on the Funding Date of such Loan or on the last day of the immediately preceding Interest Period applicable to such Loan, as applicable, and ending on the numerically corresponding day in the calendar month that is one month thereafter; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period.

“Interim Order” means, collectively, the interim order or orders entered by the Bankruptcy Court with respect to the Borrower in the Chapter 11 Case, together with all extensions, modifications and amendments thereto, which, among other matters but not by way of limitation, authorizes, on an interim basis, the Borrower to execute and perform under the terms of this Agreement and the other Loan Documents, as applicable, and incur and secure the Loans and other Obligations in connection therewith, which order and all extensions, modifications and amendments thereto shall be in form and substance satisfactory to the Lender.

“Interim Order Amount” means up to \$1,000,000.

“Law” means any statute, law, treaty, rule, code, ordinance, requirement, rule, regulation, Permit, franchise, rule of common law, authorization, directive, certificate, or other requirement of any Governmental Authority, any interpretation of any of the foregoing by any Governmental Authority, or any binding judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other Governmental Authority, and includes any and all Environmental Laws.

“Lender” has the meaning given to it in the introduction to this Agreement.

“LIBO Rate” means, for any Interest Period, the greater of (a) 0.75% and (b) the rate (rounded upwards, if necessary, to the next 1/100 of 1%) appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such service, or any successor to or substitute for such service providing rate quotations comparable to those currently provided on such page of such service as determined by the Agent in its sole discretion from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, on the second Business Day prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity of one month. If that rate is not available at that time for any reason, then the “LIBO Rate” with respect to that Interest Period shall be the greater of (a) 0.75% and (b) the rate (rounded upwards, if necessary, to the next 1/100 of 1%) at which dollar deposits for a maturity of one month are offered by the principal London office of a major bank selected by the Agent in its sole discretion in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, on the second Business Day prior to the commencement of such Interest Period.

“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 that interest is based on the common law, statute or contract, and whether that obligation or claim is fixed or contingent, and including the lien or security interest arising from a mortgage, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” includes easements, restrictions, servitudes, permits, conditions, covenants, exceptions or reservations.

“Loan Documents” means this Agreement, the Note, the Orders, the Security Documents and each other document from time to time designated as a Loan Document in writing by the Borrower and the Agent.

“Loan” means any of the loans made by the Lender to the Borrower pursuant to this Agreement.

“Maturity Date” means the earliest to occur of the following: (a) the 30th day after entry by the Bankruptcy Court of the Interim Order, if the Bankruptcy Court has not entered the Final Order approving this Postpetition Facility, (b) September 15, 2017, (c) the effective date of a chapter 11 plan in the Chapter 11 Case, which chapter 11 plan is confirmed by an order of the Bankruptcy Court, (d) the date of termination of the Commitment of the Lender and its obligations to make Loans pursuant to the exercise of remedies under Section 7.02 as a result of the occurrence of an Event of Default which is continuing, and (e) the date of the closing of a Sale pursuant to an Acceptable Sale Process.

“Milestones” has the meaning given to it in Section 5.13.

“Monthly Payment Date” shall mean the first Business Day of each calendar month.

“Moorings” has the meaning given to it in the recitals to this Agreement.

“Note” means the promissory note of the Borrower substantially in the form of Exhibit A, together with all amendments, modifications, replacements, extensions and rearrangements.

“Obligations” means any and all amounts owing or to be owing by the Borrower (whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement of the Chapter 11 Case regardless of whether such interest and fees are allowed claims in such proceeding) to the Agent or the Lender under any Loan Document; and all renewals, extensions and/or rearrangements of any of the above.

“Orders” means, together, the Interim Order and the Final Order.

“**Other Taxes**” means any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made under, or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement and any other Loan Document.

“**Patriot Act**” means the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

“**Permit**” means any permit, registration, license, notice, approval, consent, exemption, variance or other authorization required or issued by any Governmental Authority or otherwise under any Law.

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

“**Petition Date**” has the meaning given to it in the recitals to this Agreement.

“**Pipeline Assets**” has the meaning given to it in the recitals to this Agreement.

“**Postpetition**” means the time period beginning immediately upon the filing of the Chapter 11 Case.

“**Postpetition Facility**” has the meaning given to it in the recitals to this Agreement.

“**Postpetition Indebtedness**” means Obligations and the other obligations of the Borrower arising on or after the Petition Date relating to the Debtor’s bankruptcy estate, including related to the maintenance and preservation of the Collateral.

“**Prepetition**” means the time period prior to filing of the Chapter 11 Case.

“**Prepetition Agent**” means the “Agent” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof).

“**Prepetition Collateral**” means the “Collateral” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof).

“**Prepetition Facility**” has the meaning given to it in the recitals to this Agreement.

“**Prepetition Facility Obligations**” means all “Obligations” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof) from time to time owing by the Debtor to the Prepetition Secured Parties under the Prepetition Facility.

“**Prepetition Lenders**” means the “Lenders” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof).

“**Prepetition Loan Documents**” means the “Loan Documents” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof).

“**Prepetition Payment**” means a direct or indirect payment, redemption, purchase, defeasance or acquisition for value (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition (i) Indebtedness (including, without limitation, the Indebtedness under the Prepetition Loan Documents), (ii) “critical vendor payments” or (iii) trade payables (including, without limitation, in respect of reclamation claims), or other Prepetition claims against the Borrower.

“**Prepetition Secured Parties**” means the “Secured Parties” under and as defined in the Prepetition Term Loan Agreement (as in effect on the date hereof).

“**Prepetition Term Loan Agreement**” has the meaning given to it in the recitals to this Agreement.

“**Priming Lien**” has the meaning given to such term in Section 2.14(a)(iv).

“**Properties**” means the Titan Assets, all Permits, bonds, licenses, leases, easements, approvals, insurance and contracts of the Debtor or to which the Debtor is a party, all cash, accounts, documents, chattel paper, instruments, commercial tort claims, deposit accounts, investment property and general intangibles of the Debtor, and all other assets and property of the Debtor.

“**Prudent Industry Practice**” means, as of any time, (a) the practices, methods and acts engaged in or approved by most reputable participants in the oil and gas exploration, development and production industry in the general area of the Gulf of Mexico in which the particular operation or practice is occurring, or (b) with respect to any matter to which clause (a) does not apply, the practices, methods and acts that, in the exercise of reasonable judgment at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and timeliness, and in any case under clause (a) or (b), in compliance with applicable Law and in compliance with the requirements of any material applicable warranties.

“**Redemption**” means with respect to any Indebtedness, the repurchase, redemption, prepayment, repayment, 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 given to it in Section 9.04(b)(iv).

“**Related Parties**” means, with respect to any specified Person, its Affiliates and the respective directors, officers, employees, agents and advisors (including attorneys, accountants and experts) of it and its Affiliates.

“**Release**” means any depositing, spilling, leaking, pumping, pouring, placing, emitting, discarding, abandoning, emptying, discharging, migrating, injecting, escaping, leaching, dumping, or disposing.

“**Remedial Work**” means any assessment, evaluation, investigation, monitoring, containment, cleanup, removal, repair, restoration, remediation or other remedial obligations relating to a Release or threatened Release of Hazardous Materials.

“**Repayment Sources**” has the meaning given to it in Section 2.06(c).

“**Sale**” has the meaning specified in the definition of “Acceptable Sale Process”.

“**Sale Motion**” has the meaning specified in the definition of “Acceptable Sale Process”.

“**Sale Order**” has the meaning given to such term in Section 5.13(g).

“**Secured Parties**” means, collectively, the Agent and the Lender, and in each instance, their respective successors and permitted assigns; provided that, for the avoidance of doubt, if any such Person is both a Secured Party and a Prepetition Secured Party, such Person’s treatment as a Secured Party in connection with the Postpetition Facility will not alter the priority of, or otherwise affect any of the Prepetition Obligations owing to, any such Person or any claims of such Person as a Prepetition Secured Party.

“**Security Documents**” means and any and all agreements, financing statements, instruments, consents or certificates now or hereafter executed and delivered by the Borrower or any other Person in connection with, or as security for the payment or performance of the Obligations, the Note, this Agreement and the other Loan Documents including, without limitation, the Orders.

“**Statutory Reserve Rate**” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve

percentages (including any marginal, special, emergency or supplemental reserves) (expressed as a decimal) established by the Board to which the Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). These reserve percentages shall include those imposed pursuant to Regulation D of the Board. Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to the Lender under Regulation D of the Board or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“**Superpriority Claim**” means a claim against the Debtor in the Chapter 11 Case which is an administrative expense claim having priority over any or all administrative expenses of a Chapter 11 and Chapter 7 trustee, subject and subordinate to the Carve-Out, of the kind specified in Sections 364(c)(1), 503(b), 507(a)(2) and 507(d) of the Bankruptcy Code.

“**Supplemental Approved Budget**” means, in respect of the Initial Approved Budget, supplemental or replacement budgets delivered to and approved by the Lender in accordance with Section 5.01(a) (covering any time period covered by a prior budget or covering additional time periods).

“**Subsidiary**” of any Person means any other Person of which (a) more than 50% of the total ordinary voting power of Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of that Person (or Persons performing similar functions) or (b) more than 50% of the capital accounts, distribution rights or general or limited partner interests, as applicable, is, in the case of clauses (a) and (b), at the time owned or controlled, directly or indirectly, by (i) such Person, (ii) such Person and one or more Subsidiaries of such Person or (iii) one or more Subsidiaries of such Person.

“**Synthetic Leases**” means, in respect of any Person, all leases which shall have been, or should have been, in accordance with GAAP, treated as operating leases on the financial statements of the Person liable (whether contingently or otherwise) for the payment of rent thereunder and which were properly treated as indebtedness for borrowed money for purposes of U.S. federal income Taxes, if the lessee in respect thereof is obligated to either purchase for an amount in excess of, or pay upon early termination an amount in excess of, 80% of the residual value of the property subject to such operating lease upon expiration or early termination of such lease.

“**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

“**Titan Assets**” has the meaning given to it in the recitals to this Agreement.

“**Titan Holdco**” means Titan Holdco, LLC, a Delaware limited liability company.

“**Titan Platform**” has the meaning given to it in the recitals to this Agreement.

“**Transactions**” means the execution, delivery and performance of this Agreement and each other Loan Document by each party to those documents, the borrowing of Loans, the use of the proceeds thereof, and the grant of Liens by the Borrower on the Properties.

Section 1.02 Terms Generally; Rules of Construction. The definitions of terms in this Agreement 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” as used in this Agreement shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall”. 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 that

agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on amendments, supplements or modifications set forth in the Loan Documents), (b) any reference to any Law shall be construed as referring to that Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, (c) any reference to any Person shall be construed to include that Person's successors and assigns (without limiting the restrictions contained in the Loan Documents), (d) with respect to the determination of any time period, the word "from" means "from and including" and the word "to" means "to and including" and (e) 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. No provision of this Agreement or any other Loan Document shall be interpreted or construed against any Person solely because that Person or its legal representative drafted that provision.

Section 1.03 Accounting Terms and Determinations; GAAP. Unless otherwise specified in this Agreement, all accounting terms used in the Loan Documents shall be interpreted, all determinations with respect to accounting matters under the Loan Documents shall be made, and all financial statements and certificates and reports as to financial matters required to be furnished to the Agent or the Lender under the Loan Documents shall be prepared, in accordance with GAAP, except for changes in which the Borrower's independent certified public accountants concur and that are disclosed to Agent; provided, however, for the purposes of determining the outstanding amount of any Indebtedness, any original issue discount with respect to that Indebtedness shall not be deducted in determining the outstanding amount of that Indebtedness.

ARTICLE II

THE CREDIT COMMITMENTS AND CREDIT BORROWINGS

Section 2.01 Commitment. Subject to the Orders and the terms and conditions and relying upon the representations and warranties set forth in this Agreement, the Lender agrees to make Loans to the Borrower in the stated principal amount up to the aggregate equal to its Commitment, subject to the provisions of Section 2.03 and Section 2.04.

Section 2.02 Interim Order Amount. Notwithstanding anything to the contrary set forth herein, prior to the Final Order Entry Date, the aggregate principal amount of the Loans at any time outstanding shall not exceed the Interim Order Amount.

Section 2.03 Funding.

(a) General; Several Obligations. Each Loan made to the Borrower under this Agreement shall consist of Loans made by the Lender in accordance with the Commitment. Amounts paid or prepaid in respect of the Loans may not be reborrowed.

(b) Funding by Lender. The Lender shall make its Loan on the applicable Funding Date by wire transfer of an amount equal to the aggregate Loans to be made to the Borrower on that Funding Date in immediately available funds by 11:00 a.m., Las Vegas, Nevada time, to the account of the Agent most recently designated by the Agent for that purpose by notice to the Lender. The Agent will make the Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower designated by the Borrower to the Agent.

Section 2.04 Borrowing Procedure.

(a) Initial Advance. At the Closing, the Lender shall make a Loan to the Borrower equal to the Interim Order Amount consisting of Loans made by the Lender.

(b) Subsequent Advances. Following entry of the Final Order, the Borrower may request additional Loans (each, an “*Additional Loan*”), consisting of Loans made by the Lender in accordance with the Section 2.04(c) not to exceed, in the aggregate and together with the Interim Order Amount, the Commitment.

(c) Borrowing Request; Approval of Additional Loan. To request an Additional Loan, the Borrower shall deliver a duly completed and executed Borrowing Request to the Agent and the Lender not later than 9:00 a.m., Las Vegas, Nevada time, on the [●]th day prior to the proposed Funding Date for that Additional Loan. The Borrowing Request shall be substantially in the form of Exhibit B, shall be dated as of the proposed Funding Date, which date shall be a Business Day and shall be irrevocable.

Section 2.05 Repayment of Loans.

(a) Promise to Repay. The Borrower unconditionally promises to pay to the Agent for the account of the Lender the stated principal amount of each Loan, as provided for in Section 2.07.

(b) Lender and Agent Records. The Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Obligations owed to the Lender resulting from the Loans made by the Lender from time to time, including the amounts of principal and interest payable and paid to the Lender from time to time under the Loan Documents. The Agent shall maintain accounts in which it will record (i) the amount of each Loan made; (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to the Lender under the Loan Documents; and (iii) the amount of any sum received by the Agent hereunder for the account of the Lender. The entries made in the accounts maintained pursuant to this paragraph shall be *prima facie* evidence of the existence and amounts of the obligations therein recorded; provided, however, that the failure of the Lender or the Agent to maintain any such accounts or any error shall not in any manner affect the obligations of the Borrower to repay the Loans in accordance with their terms.

(c) Note. The Loans made by the Lender shall be evidenced by a single promissory note of the Borrower in substantially the form of Exhibit A, dated as of the date of this Agreement payable to the order of the Lender in a principal amount equal to outstanding principal amount of its Loan on that date, and otherwise duly completed. The date and amount of the Loan made by the Lender, and all payments made on account of the principal of that Loan, shall be recorded by the Lender on its books for its Note, and, prior to any transfer, may be endorsed by the Lender on a schedule attached to that Note or any continuation of that schedule or on any separate record maintained by the Lender. Failure to make any such notation or to attach a schedule shall not affect the Lender’s or the Borrower’s rights or obligations in respect of that Loan or affect the validity of any transfer by the Lender of its Note.

Section 2.06 Interest.

(a) Pre-Default Rate. Subject to the provisions of Section 2.06(b), the Loans shall bear interest at a rate per annum equal to the lesser of (i) the Adjusted LIBO Rate for the applicable Interest Period plus the Applicable Margin and (ii) the Highest Lawful Rate.

(b) Post-Default Rate. Notwithstanding the foregoing, if any of the following events occur:

- (i) an Event of Default has occurred and is continuing; or
- (ii) any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder or under any other Loan Document is not paid when due, whether at stated maturity, upon acceleration or otherwise;

then all the Loans outstanding shall bear interest, after as well as before judgment, at the lesser of (A) a rate per annum equal to 2.0% plus the rate provided for in Section 2.06(a)(i) and (B) the Highest Lawful Rate, from the date of the event or circumstance described above (disregarding any provisions regarding notice or passage of time) until, in each case, such event or condition has been cured.

(c) Interest Payment Dates. Accrued interest on each Loan shall be payable in arrears on each Monthly Payment Date, either from Cash Collateral or, if Borrower has insufficient Cash Collateral, through funding of Loans (“**Repayment Sources**”), in each case for the Interest Period ending on that date; provided, however, that (i) interest accrued pursuant to Section 2.06(b) shall be payable on demand and (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of the repayment or prepayment.

(d) Interest Rate Computations. All interest hereunder shall be computed on the basis of a year of 360 days for the actual days elapsed. The applicable Adjusted LIBO Rate shall be determined by the Agent, and its determination shall be final and conclusive absent manifest error and be binding upon the parties hereto.

Section 2.07 Repayment of Loans. The Borrower shall repay to the Lender on the Maturity Date the aggregate principal amount of Loans outstanding on such date, plus all accrued and unpaid interest thereon, all accrued and unpaid fees, and the amount of any other then-outstanding Obligations.

Section 2.08 Mandatory Prepayments.

(a) Acceptable Sale Process. On the receipt by the Borrower and/or the Debtor of any proceeds of a Sale pursuant to an Acceptable Sale Process, the Borrower shall prepay the Loans and permanently reduce the Commitment in an aggregate amount equal to 100% of such proceeds (net of amounts to be paid pursuant to the Acceptable Sale Process).

(b) Receipt of Insurance Proceeds. On the receipt by the Borrower and/or the Debtor of insurance proceeds in respect of a Casualty Event, the Borrower shall make prepayments in an aggregate amount equal to the lesser of (A) 100% of such proceeds and (B) the amount of the then-outstanding Obligations.

(c) Confirmation of Chapter 11 Plan. If on any date any chapter 11 plan confirmed by an order of the Bankruptcy Court in the Chapter 11 Cases shall become effective, then on such effective date the Commitment shall be immediately reduced to zero and the Borrower shall be required to prepay all outstanding Loans plus all accrued and unpaid interest thereon, all accrued and unpaid fees, and the amount of any other of the then-outstanding Obligations.

(d) Notwithstanding anything to the contrary contained herein, any amounts required to be applied as a mandatory prepayment in accordance with Section 2.08(a), Section 2.08(b) or Section 2.08(c) shall be applied in the order of priority set forth in Section 7.02(d).

Section 2.09 Alternate Rate of Interest. If the Agent (a) determines (which determination shall be final and conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate, or (b) is advised in writing by the Lender that the Adjusted LIBO Rate will not adequately and fairly reflect the cost to the Lender of making or maintaining its Loans, then the Agent shall notify the Borrower and the Lender as promptly as practicable, and until the Agent notifies the Borrower and the Lender that the circumstances giving rise to this notice no longer exist, the Loans shall bear interest at a rate per annum equal to the rate of interest published by the *Wall Street Journal* from time to time as the “prime rate,” plus 7%, but not to exceed the Highest Lawful Rate.

Section 2.10 Increased Costs.

(a) Changes in Law. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, the Lender,

(ii) subject the Lender to any Tax of any kind whatsoever with respect to this Agreement or any Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 2.15(c) and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender), or

(iii) impose on the Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Loans made by such Lender,

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

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

(c) Certificates. A certificate of the Lender setting forth the amount or amounts necessary to compensate the Lender or its holding company, as the case may be, as specified in Section 2.10(a) or (b) and delivered to the Borrower shall be final and conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within five Business Days after the Borrower receives it, from Repayment Sources.

(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 2.10 shall not constitute a waiver of the Lender's right to demand such compensation; provided, however, that the Borrower shall not be required to compensate a Lender pursuant to this Section 2.10 for any increased costs or reductions incurred more than one year prior to the date the Lender notifies the Borrower of the Change in Law giving rise to the increased costs or reductions and of the Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to the increased costs or reductions is retroactive, then the one-year period referred to above shall be extended to include the period of retroactive effect).

Section 2.11 Break Funding Payments. In the event of (a) the payment or prepayment, whether optional or mandatory, of any principal of any Loan earlier than the next Monthly Payment Date (including as a result of an Event of Default) or (b) the failure to borrow, continue or prepay any Loan on the date specified in any notice delivered pursuant hereto, then, in any such event, the Borrower shall compensate the Lender for the loss, cost and expense attributable to that event to the extent set forth in the following sentence. The loss, cost or expense to the Lender shall be deemed to include an

amount determined by the Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of that Loan had that event not occurred, at the Adjusted LIBO Rate that would have been applicable to that Loan, for the period from the date of such event to the next Monthly Payment Date, over (ii) the amount of interest that would accrue on that principal amount for that period at the interest rate the Lender would bid were it to bid, at the commencement of that period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market, but only to the extent that the Lender has actually purchased interest-rate contracts in the eurodollar market and incurred losses, costs or expenses in connection therewith. A certificate of the Lender setting forth any amount or amounts that the Lender is entitled to receive pursuant to this Section 2.11 and delivered to the Borrower shall be final and conclusive absent manifest error. The Borrower shall pay the Lender the amount shown as due on any such certificate on or before the fifth Business Day after the Borrower receives it from Repayment Sources.

Section 2.12 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 under the Loan Documents (whether of principal, interest, fees or of amounts payable under Section 2.15 or otherwise) prior to 12:00 noon, Las Vegas, Nevada time, on the date when due, in immediately available funds from Repayment Sources, without defense, deduction, recoupment, set-off or counterclaim. Fees, once paid, shall be fully earned and shall not be refundable under any circumstances. Any amounts received after that time may, in the discretion of the Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest. All such payments shall be made to the Agent at its offices in Las Vegas, Nevada, except that payments pursuant to Section 2.15 and Section 9.03 shall be made directly to the Persons entitled to them. The Agent shall distribute any such payments it receives for the account of any other Person to the appropriate recipient promptly following receipt. If any payment under the Loan Documents 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 that extension. All payments hereunder shall be made in dollars.

(b) Insufficient Funds. If at any time insufficient funds are received by and available to the Agent to pay fully all amounts of principal, interest and fees then due under the Loan Documents, those funds shall be applied in the order provided for in Section 7.02(d); provided, however, that the Agent may, subject to any applicable federal, state or foreign bankruptcy, insolvency, receivership or similar orders, distribute any adequate protection payments it receives on behalf of the Lender to the Lender in its sole discretion (*i.e.*, whether to pay the earliest accrued interest, all accrued interest on a *pro rata* basis or otherwise).

Section 2.13 No Discharge; Survival of Claims. Until the Obligations are paid in cash in full (or otherwise satisfied pursuant to the Acceptable Sale Process) and the Commitment has been terminated, the Borrower agrees that (i) its Obligations hereunder shall not be discharged by the entry of an order confirming a plan of reorganization (and the Borrower, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge) and (ii) the Superpriority Claim granted to the Lender pursuant to the Orders and the Liens granted for the benefit of the Secured Parties pursuant to the Orders and pursuant to this Agreement and the other Loan Documents shall not be affected in any manner by the entry of an order confirming any plan of reorganization that does not provide for the Obligations to be paid in cash in full (or otherwise satisfied pursuant to the Acceptable Sale Process).

Section 2.14 Reorganizational Matters.

(a) Superpriority Claim and Liens. The Borrower hereby covenants, represents and warrants that, upon entry of the Orders, the Obligations of the Borrower under the Loan Documents authorized by the Orders:

(i) pursuant to Sections 364(c)(1) of the Bankruptcy Code, constitute an allowed administrative expense claim in the Chapter 11 Case having superpriority over all administrative expenses of the kind specified in Section 364(c)(1), 503(b), 507(a)(2), 507(b) or 507(d) of the Bankruptcy Code;

(ii) pursuant to Section 364(c)(2) of the Bankruptcy Code and the Security Documents, shall be secured by, and the Borrower shall have granted to the Agent, for the benefit of the Secured Parties, perfected first priority Liens on all presently owned and hereafter acquired unencumbered tangible and intangible property and assets of the Borrower and its estate wherever located, including, without limitation, the Titan Assets, accounts, deposit accounts, cash, chattel paper, investment property, letter-of-credit rights, equity interests, securities, securities accounts, securities entitlements, books, records, plants, equipment, interests in leases and leaseholds, commercial tort claims, causes of action (other than Avoidance Actions subject to the last sentence in the definition of "Collateral"), investments, instruments, documents, inventory, contract rights, general intangibles, payment intangibles, tax or other refund, letter of credit, supporting obligations, patents, copyrights, trademarks, tradenames, other intellectual property, all licenses thereof, real property, fixtures, goods, machinery and equipment, vessels and other fixed assets and any and all proceeds and products of all of the foregoing (including earnings and insurance proceeds);

(iii) pursuant to Section 364(c)(3) of the Bankruptcy Code and the Security Documents, shall be secured by, and the Borrower shall have granted to the Agent, for the benefit of the Secured Parties, perfected junior priority Liens on all presently owned and hereafter acquired tangible and intangible property and assets of the Borrower and its estate wherever located, including, without limitation, the Titan Assets, accounts, deposit accounts, cash, chattel paper, investment property, letter-of-credit rights, equity interests, securities, securities accounts, securities entitlements, books, records, plants, equipment, interests in leases and leaseholds, commercial tort claims, causes of action (other than Avoidance Actions subject to the last sentence in the definition of "Collateral"), investments, instruments, documents, inventory, contract rights, general intangibles, payment intangibles, tax or other refund, letter of credit, supporting obligations, patents, copyrights, trademarks, tradenames, other intellectual property, all licenses thereof, real property, fixtures, goods, machinery and equipment, vessels and other fixed assets and any and all proceeds and products of all of the foregoing (including earnings and insurance proceeds) that are subject to (x) valid and perfected Liens in existence on the Petition Date or (y) valid Liens in existence on the Petition Date as permitted by Section 546(b) of the Bankruptcy Code, if any (in each case, other than Liens securing the Prepetition Facility), each solely to the extent that such Liens were in each case valid, enforceable, perfected and non-avoidable as of the Petition Date and were permitted by the terms of the Prepetition Loan Documents (the "**Existing Liens**"); and

(iv) pursuant to Section 364(d)(1) of the Bankruptcy Code and the Security Documents, shall be secured by, and the Borrower shall have granted to the Agent, for the benefit of the Secured Parties, perfected first priority, senior priming Liens (the "**Priming Liens**") on the Collateral under and as defined in each of the Prepetition Loan Documents, which Priming Lien shall prime all Liens securing the Prepetition Facility and any Liens that are junior thereto, and shall also be senior to any Liens arising after the Petition Date to provide adequate protection in respect of any Liens to which the Priming Liens are senior.

Each of Section 2.14(a)(i), Section 2.14(a)(ii), Section 2.14(a)(iii) and Section 2.14(a)(iv) shall be subject and subordinate only to the Carve-Out.

(b) Collateral Security Perfection. The Borrower agrees to take all actions that the Agent or the Lender may reasonably request as a matter of nonbankruptcy law to perfect and protect the Agent's Liens for the benefit of the Secured Parties upon the Collateral and for such Liens to obtain the priority therefor contemplated hereby, including, without limitation, executing and delivering such documents and instruments, financing statements, providing such notices and assents of third parties, obtaining such governmental authorizations and providing such other instruments and documents in recordable form as the Agent or the Lender may reasonably request. The Borrower hereby irrevocably authorizes the Agent at any time and from time to time to file in any filing office in any UCC jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of the Borrower or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC, or (ii) as being of an equal or lesser scope or with greater detail, and (b) provide any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Borrower is an organization, the type of organization and any organization identification number issued to the Borrower and (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. The Borrower agrees to furnish any such information to the Agent promptly upon request. Notwithstanding the provisions of this Section 2.14(b), the Secured Parties shall have the benefits of the Interim Order and the Final Order as set forth in Section 3.01(l).

Section 2.15 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made from Repayment Sources free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided, however, that if the Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from those payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.15(a)), the Agent or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Law.

(b) Payment of Other Taxes by the Borrower. The Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law from Repayment Sources.

(c) Indemnification by the Borrower. The Borrower shall indemnify and pay from Repayment Sources the Agent and the Lender, on or before the fifth Business Day after notice so demanding, for the full amount of any Indemnified Taxes and Other Taxes (including Indemnified Taxes and Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.15) paid by the Agent or the Lender, as the case may be, and any penalties, interest and expenses arising from or with respect to the Indemnified Taxes or Other Taxes, regardless of whether the Indemnified Taxes and Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of the payment or liability delivered to the Borrower by the Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of the Lender, shall be final and conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by the Governmental Authority evidencing the payment,

a copy of the return reporting the payment or other evidence of such payment satisfactory to the Agent in its sole discretion.

(e) Refunds. The Agent and the Lender shall take all reasonable actions (consistent with its internal policy and legal and regulatory restrictions) requested by the Borrower to assist the Borrower, at the sole expense of the Borrower, to recover from the relevant Governmental Authority any Indemnified Taxes or Other Taxes in respect of which amounts were paid by the Borrower pursuant to this Section 2.15; provided, however, that the Lender will not be required to take any action that would be, in the sole judgment of the Lender, legally inadvisable, or commercially or otherwise disadvantageous to the Lender in any respect, and in no event shall the Lender be required to disclose any tax returns or any other information that, in the sole judgment of the Lender, is confidential. If the Agent or the Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.15, it shall pay to the Borrower an amount equal to the refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.15 with respect to the Indemnified Taxes or Other Taxes giving rise to the refund), net of all out-of-pocket expenses of the Agent or the Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to the refund); provided, however, that the Borrower, upon the request of the Agent or the Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or the Lender in the event the Agent or the Lender is required to repay the refund to such Governmental Authority. This Section 2.15(e) shall not be construed to require the Agent or the Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

Section 2.16 Illegality. Notwithstanding any other provision of this Agreement, in the event that it becomes unlawful for the Lender or its applicable lending office to honor its obligation to make or maintain Loans, then the Lender promptly shall notify the Borrower and the Agent and the Lender's obligation to make its Loans shall be suspended until such time as the Lender may again make and maintain its Loans.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01 Conditions to Funding. The obligations of the Lender to make the Interim Order Amount shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Agent shall have received from each party to this Agreement counterparts (in such number as may be requested by the Agent) of this Agreement signed on behalf of that party.

(b) The Agent shall have received a duly executed Note payable to the order of the Lender in a principal amount equal to its Commitment dated as of the date of this Agreement.

(c) The Agent shall have received from each party duly executed counterparts (in such number as may be requested by the Agent) of each of the other Loan Agreements signed on behalf of that party.

(d) The Agent and the Lender shall have received, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder, including the billed fees and expenses of (i) White & Case LLP, as the Agent's and Lender's New York counsel, (ii) Farnan LLP, the Agent's and Lender's Delaware counsel, and (iii) Jones Walker

LLP, as the Agent's and Lender's Louisiana and regulatory counsel. Such payments shall be made from Repayment Sources.

(e) The Agent shall have received certificates of the appropriate state agency in the jurisdictions of formation with respect to the existence, qualification and good standing of the Debtor.

(f) The Agent shall have received evidence satisfactory to it in its sole discretion that the Properties are being and will be operated in compliance with Prudent Industry Practice.

(g) Except as previously delivered in connection with the Prepetition Credit Agreement, the Agent shall have received copies of all contracts, Permits, approvals, bonds and other documentation whether relating to a Governmental Authority or a third party, relating to the ownership, use and operation of the Properties, together with evidence that such contracts, Permits, bonds and other documentation are in full force and effect, in form and substance satisfactory to the Agent in its sole discretion.

(h) The Agent shall have received a certificate of insurance coverage from each insurer evidencing that the Debtor is carrying insurance in accordance with Section 5.06, satisfactory to the Agent in its sole discretion.

(i) The Agent shall have received all information that it determines is necessary or appropriate for compliance with the Patriot Act and any rules or regulations under it.

(j) Subject to the entry by the Bankruptcy Court of the applicable Orders, at the time of and immediately after giving effect to the advance of Loans, no Default or Event of Default shall have occurred and be continuing.

(k) On or prior to the Closing, the Bankruptcy Court shall have entered the Interim Order, which Interim Order shall be in full force and effect and shall not have been amended, modified, stayed or reversed; provided that (x) if such Interim Order is the subject of a pending appeal in any respect, none of such Interim Order, the initial extensions of credit, or the performance by the Borrower of any of the Obligations shall be the subject of a presently effective stay pending appeal, (y) the Borrower, the Agent and the Lender shall be entitled to rely in good faith upon such Interim Order, notwithstanding objection thereto or appeal therefrom by any interested party and (z) the Borrower, the Agent and the Lender shall be permitted and required to perform their respective obligations in compliance with this Agreement notwithstanding any such objection or appeal unless the relevant order has been stayed by a court of competent jurisdiction.

(l) On or prior to the Closing, the Interim Order, upon entry thereof, and any applicable Security Documents shall be effective to create in favor of the Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first priority (except for Existing Liens entitled to priority under applicable laws) perfected security interest in and lien on the Collateral, subject to the Carve-Out. All filings, recordings, deliveries of instruments and other actions necessary or desirable in the reasonable opinion of the Agent to protect and preserve such security interests shall have been duly effected. The Agent shall have received evidence thereof in form and substance satisfactory to the Agent.

(m) On the Closing, the Secured Parties shall have received and be satisfied with (i) an initial cash flow budget, depicting on a weekly basis receipts and disbursements, cash receipts, cash balance and loan balance for the first 13 weeks from the Closing, to be attached to the Interim Order which shall be in form and substance satisfactory to the Secured Parties (the "**Initial Approved Budget**"), together with a good faith estimate of all credit borrowings of Loans to be made within the first week following the Closing and (ii) such historical and pro forma financial statements for such periods as the Agent may reasonably request, which shall be in form and substance reasonably satisfactory to the Secured Parties.

(n) The Agent shall have received all documents and instruments (in form and substance satisfactory to the Agent) that the Agent has then reasonably requested, in addition to those described in this Section 3.01.

(o) The Agent shall have received a certificate dated as of the proposed Funding Date in form and substance satisfactory to it in its sole discretion signed by the Borrower certifying as to the items in (j) through (n) above.

Section 3.02 Conditions to Funding of Additional Loans. The obligations of the Lender to make each Additional Loan shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Lender and the Agent shall have received a Borrowing Request complying with the requirements of Section 2.04(c)(i) for the applicable Additional Loan on or before the [●]th¹ day before the proposed Funding Date for that Additional Loan.

(b) At the time of each such proposed Additional Loan and also after giving effect thereto, (x) if an extension of credit has been requested before the Final Order has been entered by the Bankruptcy Court, (i) the Interim Order shall be in full force and effect and shall not have been vacated, reversed, stayed, or modified or amended in any respect; and (ii) the aggregate outstanding amount of Loans does not exceed (and will not exceed, after giving effect to the proposed Additional Loan) the Interim Order Amount at the time of such proposed Additional Loan and (y) if an extension of credit is requested after the Final Order has been entered by the Bankruptcy Court, the Agent and the Lender shall have received a copy of the Final Order and the Final Order shall be in full force and effect and shall not have been vacated, reversed, stayed, or modified or amended in any respect. If either the Interim Order or the Final Order is the subject of a pending appeal in any respect, none of such Order, the making of the Loans or the performance by the Borrower of any of its obligations under any of the Loan Documents shall be the subject of a presently effective stay pending appeal. The Borrower, the Agent and the Lender shall be entitled to rely in good faith upon the Orders, notwithstanding objection thereto or appeal therefrom by any interested party. The Borrower, the Agent and the Lender shall be permitted and required to perform their respective obligations in compliance with this Agreement, notwithstanding any such objection or appeal unless the relevant Order has been stayed by a court of competent jurisdiction.

(c) Subject to the entry by the Bankruptcy Court of the applicable Orders, at the time of and immediately after giving effect to the advance of the applicable Additional Loan, no Default or Event of Default shall have occurred and be continuing.

(d) The Agent shall have received the required periodic Supplemental Approved Budgets, in each case with written explanations of material variances, each in form and substance reasonably satisfactory to the Secured Parties, and the Borrower shall be in compliance with the Approved Budget. Each drawing of Loans shall comply with Section 6.05.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender that:

Section 4.01 Authority; Enforceability. Subject to the entry by the Bankruptcy Court of the applicable Orders, the Transactions are within the Borrower's powers and have been duly authorized. Subject to the entry by the Bankruptcy Court of the applicable Orders, each Loan Document

¹ [NTD: To be conformed to time period specified in Section 2.04.]

to which the Borrower is a party has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, 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 4.02 Approvals; No Conflicts. Subject to the entry by the Bankruptcy Court of the applicable Orders, the Transactions (i) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other third 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, in each case such as have been obtained or made and are in full force and effect and (ii) will not violate any applicable Law or any order of any Governmental Authority.

Section 4.03 Investment Company Act. Neither the Borrower or the Debtor 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.

Section 4.04 Location of Business and Offices. The Debtor's jurisdiction of organization is Delaware, the name of the Debtor as listed in the public records of its jurisdiction of organization is Bennu Titan LLC, and the organizational identification number of the Debtor in its jurisdiction of organization is 4823927.

Section 4.05 Use of Proceeds; Federal Reserve Regulations. The proceeds of the Loans shall be used in accordance with Section 5.10. Neither the Borrower or the Debtor is engaged principally, or as one of its 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, U or X of the Board). No part of the proceeds of any Loan will be used for any purpose which violates the provisions of Regulations T, U or X of the Board.

Section 4.06 Orders.

(a) The Interim Order and, at all times after its entry by the Bankruptcy Court, the Final Order is in full force and effect, and has not been reversed, modified, amended, stayed or vacated absent the written consent of the Lender.

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations, the Lender shall, subject to the provisions of Article VII and the applicable provisions of the applicable Order, be entitled to immediate payment of such Obligations, and to enforce the remedies provided for hereunder in accordance with the terms hereof, without further application to or order by the Bankruptcy Court.

(c) If either the Interim Order or the Final Order is the subject of a pending appeal in any respect, none of such Order, the making of the Loans or the performance by the Borrower of any of its obligations under any of the Loan Documents shall be the subject of a presently effective stay pending appeal. The Borrower, the Agent and the Lender shall be entitled to rely in good faith upon the Orders, notwithstanding objection thereto or appeal therefrom by any interested party. The Borrower, the Agent and the Lender shall be permitted and required to perform their respective obligations in compliance with this Agreement notwithstanding any such objection or appeal unless the relevant Order has been stayed by a court of competent jurisdiction.

Section 4.07 Liquidation. No order has been entered in the Chapter 11 Case to convert the Chapter 11 Case to a case under Chapter 7 or to dismiss the Chapter 11 Case.

Section 4.08 Perfection of Security Interest. Upon entry of each of the Interim Order and the Final Order, each such Order shall be effective to create in favor of the Agent, for the benefit of the Secured Parties, a legal, valid, enforceable and perfected security interest in the Collateral and proceeds thereof.

Section 4.09 Secured Superpriority Claim; Liens. Upon the entry of each of the Interim Order and the Final Order, each such Order and the Loan Documents are sufficient to provide the Superpriority Claim and Liens described in, and with the priority provided in, Section 2.14.

ARTICLE V

AFFIRMATIVE COVENANTS

Until the Commitment has expired or been terminated and the principal of 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, the Borrower covenants and agrees with the Lender that:

Section 5.01 Information. The Borrower will furnish to the Agent and the Lender:

(a) Approved Budget Reconciliation. By 12:00 noon (Las Vegas, Nevada time) on the second and fourth Wednesday of each month (or if such day is not a Business Day, the next succeeding Business Day), a reconciliation of actual receipts and disbursements, cash receipts, cash balance and loan balance against such figures set forth in the Approved Budget, on a line-by-line basis, showing any percentage variance to the proposed corresponding line item of the Approved Budget for (i) the two-week period which ended on the immediately preceding Friday and (ii) the four-week period which ended on the immediately preceding Friday, in each case, certified by the Borrower as having been prepared in good faith and with written explanations of material variances and accompanied by an updated forecast of drawings of Loans for the two weeks commencing on the past Saturday (if such forecasts are projected to vary from the figures set forth in the Approved Budget); provided that the first reconciliation for a two-week period shall be for the first two full weeks ending [●], 2016 and the first reconciliation for a four-week period shall be for the first full four-week period ending [●], 2016; and (y) on [●], 2016 and every fourth Friday (or if such day is not a Business Day, the next succeeding Business Day) thereafter, an updated “rolling” 13-week budget (commencing with the immediately succeeding Saturday) supplementing the most recent Approved Budget; at the time such budget is in form and substance reasonably acceptable to the Lender, such budget shall constitute a Supplemental Approved Budget (provided, however, that the Borrower may make modifications to any Approved Budget with the consent of the Lender in its reasonable discretion).

(b) Certificate of Insurer — Insurance Coverage. Promptly, and in any event on or before the third Business Day following any request therefor, a certificate of insurance coverage from each insurer with respect to the insurance required by Section 5.06, in form and substance satisfactory to the Agent in its sole discretion, and all copies of the applicable policies.

(c) Other Accounting Reports. Promptly upon receipt thereof, a copy of each report or letter submitted to the Borrower by independent accountants in connection with any annual, interim or special audit made by them of the books of the Debtor, as the case may be, and a copy of any response by the Borrower or its representatives, to the letter or report.

(d) Notices Under Material Instruments. Promptly, and in any event on or before the third Business Day after the furnishing thereof, copies of any financial statement, report or notice furnished to or by any Person pursuant to the terms of any Loan Document or any other agreement, other than this Agreement and not otherwise required to be furnished to the Lender pursuant to any other provision of this Section 5.01.

(e) Notice of Casualty Events. Promptly, and in any event on or before the third Business Day after the occurrence of a Casualty Event, notice of that occurrence or the commencement of any action or proceeding that could reasonably be expected to result in a Casualty Event, together with a certificate of the Borrower setting forth the details of the Casualty Event.

(f) Engineering and Production Reports. Promptly after receipt thereof by the Borrower, any engineering or production report relating to the Properties.

(g) Notice of Change in Insurance. Promptly, and in any event on or before the third Business Day after the receipt thereof by the Borrower, any notice or other communication relating to early cancellation or material change in the terms, coverage or amount of any insurance.

(h) Other Requested Information. Promptly, and in any event on or before the third Business Day following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower, or compliance with the terms of this Agreement or any other Loan Document, as the Agent or the Lender may request.

Section 5.02 Notices of Material Events. The Borrower shall promptly, but in no event later than the second Business Day after gaining knowledge, notify the Agent and the Lender of the following:

- (a) the occurrence of any Default;
- (b) 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 the Borrower or the Properties not previously disclosed in writing to the Lender or any material adverse development in any action, suit, proceeding, investigation or arbitration (whether or not previously disclosed to the Lender); and
- (c) receipt of any notice or allegation of potential liability under any Environmental Laws.

Each notice delivered under this Section 5.02 shall be accompanied by a statement of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.03 Payment of Taxes.

(a) The Borrower shall (or shall cause the following to be done on its behalf) (i) timely file all Tax returns, (ii) timely pay from Repayment Sources all Taxes, assessments and other governmental charges or levies imposed upon it or upon its income, profits or property, (iii) subject to Section 6.05, pay and discharge when due all Postpetition liabilities owed by it on ordinary trade terms to vendors, suppliers and other Persons providing goods and services used by it in the ordinary course of its business except if prevented from paying as a result of the Chapter 11 Case, (iv) subject to Section 6.05, pay and discharge when due all other Postpetition liabilities now or hereafter owed by it except if prevented from paying as a result of the Chapter 11 Case and (v) maintain appropriate accruals and reserves for all of the foregoing in accordance with GAAP; provided, however, that the Borrower may delay 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.

(b) The Borrower will pay all amounts it owes under the Loan Documents in accordance with the terms thereof from Repayment Sources and will comply with every covenant, term and condition in the Loan Documents applicable to it.

Section 5.04 Performance of Obligations under Loan Documents. The Borrower will pay the Note according to their reading, tenor and effect, and the Borrower will do and perform every act and discharge all of the obligations to be performed and discharged by it under, and keep in full force and effect, the Loan Documents to which it is a party, including this Agreement, at the time or times and in the manner specified.

Section 5.05 Title; Certificates. The Borrower will (a) maintain good and marketable title to the Properties. The Borrower will do all things necessary for Borrower to do to cause the Benu Titan to maintain its (i) Certificate of Inspection in effect at all times and (ii) class certificate with the American Bureau of Shipping without outstanding items at all times. The Borrower shall notify the Agent promptly of any outstanding item when it occurs concerning class and any matter which may arise that could adversely affect the Certificate of Inspection. Such notice shall explain the corrective steps the Borrower is taking and in what time frame it expects to be able to have such item removed or such matter resolved.

Section 5.06 Insurance. The Borrower will maintain at all times including any time the Benu Titan is being moved from one location to another, insurance coverages on the Titan Assets meeting or exceeding the types and minimum amounts of coverages of the types listed in Section 2 of Schedule 5.06, with endorsements, claims procedures, certificates of insurance and other matters as set forth on, and that comply with, Schedule 5.06.

Section 5.07 Books and Records; Inspection Rights. The Borrower will keep proper books, records and accounts in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. The Borrower will permit any representatives designated by the Agent or the Lender to visit and inspect the 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 following prior notice of three Business Days.

Section 5.08 Environmental Matters.

(a) To the extent required, the Borrower shall: (i) comply with all applicable Environmental Laws, (ii) not Release or threaten to Release any Hazardous Material on, under, about or from any of the Properties except in compliance with applicable Environmental Laws in all material respects and except for Releases of Hazardous Materials in the ordinary course of business that could not reasonably be expected to result in a material claim or liability pursuant to applicable Environmental Laws, (iii) timely obtain all Environmental Permits, if any, required under applicable Environmental Laws to be obtained in connection with the Properties, (iv) promptly commence and diligently prosecute to completion any Remedial Work in the event any Remedial Work is required or appropriate 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 the Properties, and (v) establish and implement such procedures as may be necessary to continuously determine and assure that its obligations under this Section 5.08(a) are timely and fully satisfied. In the event Borrower is required to perform, hereunder the costs to Borrower shall be paid from Repayment Sources.

(b) The Borrower will promptly notify the Agent and the Lender of Borrower's knowledge of (i) any overtly threatened formal action, investigation or inspection by any Governmental Authority or any overtly threatened demand or lawsuit by any Person against the Borrower, BOG, any of their Affiliates or the Properties in connection with any Environmental Laws, (ii) any material Release of Hazardous Materials from the Properties that is reportable to a Governmental Authority and (iii) any incident, event, or occurrence that is reasonably likely to result in a material claim pursuant to applicable Environmental Law, including without limitation, material non-compliance with applicable Environmental

Law. The Borrower will promptly furnish the Agent with copies of all relevant correspondence, reports, studies and legal documents relating to any of the above and with the results of any action, investigation or inspection, except for those records and documents the disclosure of which would result in the loss of attorney-client privilege held by Borrower with respect to such records or documents.

(c) The Borrower shall promptly provide copies of any existing reports, studies, documents or other materials in its possession, custody or control, as reasonably requested by the Agent, relating to the compliance of the Borrower, Titan Holdco, or the Properties with applicable Environmental Laws or potential liability pursuant to applicable Environmental Law.

Section 5.09 Maintenance of Liens. The Borrower will take or cause to be taken all action required or desirable to maintain the Liens of the Security Documents and the first priority thereof. The Borrower will from time to time execute or cause to be executed any and all further instruments (including financing statements, continuation statements and similar statements with respect to any Security Documents) and register and record those documents and instruments in such offices requested by the Agent for those purposes.

Section 5.10 Use of Proceeds. The Borrower shall use the proceeds of the Loans not in material contravention of any Law or of any Loan Document and in accordance with Section 6.05 and as otherwise provided herein.

Section 5.11 Further Assurances.

(a) The Borrower will promptly execute and deliver to the Agent all such other documents, agreements and instruments requested by the Agent to comply with, cure any defects or accomplish the conditions precedent, covenants and agreements of the Borrower in the Loan Documents, including the Note, or to further evidence and more fully describe the collateral intended as security for the Obligations, or to correct any omissions in this Agreement or 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 first priority thereof, or to make any recordings, file any notices or obtain any consents, all as may be necessary or appropriate, in the sole discretion of the Agent, in connection therewith.

(b) The Borrower hereby authorizes the Agent to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Properties without the signature of the Borrower where permitted by Law.

Section 5.12 Registration of Bennu Titan. If the Bennu Titan at any time is (i) registered as a vessel with the United States Coast Guard or any successor Governmental Authority, then contemporaneously or (ii) determined by a court of competent jurisdiction to be a vessel, then within 30 days of such determination, the Borrower shall execute, deliver to the Agent and file with the United States Coast Guard or other appropriate Governmental Authority a first preferred ship mortgage and any other document or instrument necessary or appropriate, in the sole discretion of the Agent, to continue the first-priority Lien of the Agent on the Bennu Titan securing the Obligations, in form and substance acceptable to the Agent in its sole discretion. All costs of the actions described herein shall be paid from Repayment Sources.

Section 5.13 Milestones. The Borrower shall cause the following actions (collectively, the "**Milestones**") to occur no later than the applicable date set forth below:

(a) By no later than January 31, 2017, the Borrower shall have filed a motion seeking an order setting a bar date in the Chapter 11 Case;

(b) The bar date having occurred in the Chapter 11 Case by no later than March 15, 2017;

(c) By no later than 30 days after entry of the Interim Order, the Borrower shall obtain Bankruptcy Court approval and entry of the Bid Procedures Order;

(d) By no later than 20 days after entry of the Bid Procedures Order, the Borrower shall have engaged an Acceptable Broker, satisfactory to the Secured Parties, in their sole and absolute discretion, for the marketing of the Titan Platform and related assets in accordance with the bid procedures contemplated by the Sale Motion and the Bid Procedures Motion.

(e) By no later than 180 days after entry of the Bid Procedures Order, the Borrower shall complete the process of soliciting binding bids to acquire all or substantially all of the assets and properties of the Borrower pursuant to the Bid Procedures Order;

(f) By no later than 240 days after entry of the Bid Procedures Order, the Borrower shall commence and complete, subject to the supervision of the Bankruptcy Court and, in accordance with the Bid Procedures, the Auction, if any, and, in accordance with the Bid Procedures, select the successful bid for subsequent approval by the Bankruptcy Court pursuant to the Sale Order;

(g) By no later than 5 Business Days after the scheduled conclusion of the Auction, the Borrower shall obtain approval of a Sale to a buyer on the terms of the successful bid (the “*Approved Sale*”) pursuant to a sale order in form and substance reasonably acceptable to Agent and the Prepetition Agent (the “*Sale Order*”); and

(h) The Borrower shall consummate the Approved Sale pursuant to the Sale Order by no later than 20 days after entry of the Sale Order.

ARTICLE VI

NEGATIVE COVENANTS

Until the Commitment has expired or terminated and the principal of and interest on each Loan and all other amounts payable under the Loan Documents have been paid in full, the Borrower covenants and agrees with the Lender that:

Section 6.01 Sale of Properties. The Borrower will not sell, assign, convey, lease, allow the use of or otherwise transfer any property except a Sale pursuant to and in accordance with an Acceptable Sale Process.

Section 6.02 Environmental Matters. The Borrower will not cause or permit any of the Properties to be in violation of any Environmental Laws, or do anything or permit anything to be done which will subject the Properties to a Release or threatened Release of Hazardous Materials, exposure to any Hazardous Materials, or to any Remedial Work under any Environmental Laws except in compliance with applicable Environmental Laws in all material respects and except for Releases of Hazardous Materials in the ordinary course of business that could not reasonably be expected to result in a material claim or liability pursuant to applicable Environmental Laws.

Section 6.03 Regulation of Pipeline. The Borrower will not, and will not allow any other Person to, take any action that could reasonably be expected to result in any of the Properties being subject to the Interstate Commerce Act, the Natural Gas Act or regulation by the Federal Energy Regulatory Commission or any similar state or local Governmental Authority, other than the provisions relating to non-discrimination, fair treatment of third party entities and similar provisions of the Outer Continental Shelf Lands Act.

Section 6.04 Use of the Properties. The Borrower will not, and will not allow any other Person to, (a) use the Properties in a manner that is improper, dangerous, or otherwise not in compliance with Prudent Industry Practice or (b) move the Benu Titan from its present location except in connection with a Sale pursuant to and in accordance with an Acceptable Sale Process.

Section 6.05 Approved Budget.

(a) The Borrower will not permit the proceeds of Loans or Cash Collateral to be used for any use other than a use permitted herein or by Section 5.10, it being understood that (x) neither the Agent nor the Lender shall have any duty to monitor such compliance and (y) the line items in the Approved Budget for payment of amortization of principal, interest, expenses and other amounts to the Secured Parties are estimates only, and the Borrower remains obligated to pay any and all Obligations in accordance with the terms of the Loan Documents. Nothing in any Approved Budget shall constitute an amendment or other modification of this Agreement.

(b) The Borrower will not make any disbursements other than itemized expenses in the amounts set forth in the Approved Budget without the express written consent of the Agent.

(c) Notwithstanding anything in any Approved Budget, the Borrower shall not make any disbursements or payments of any kind (including by way of set off) with respect to any Indebtedness or other obligations arising on or before the Petition Date owed by the Borrower to vendors, suppliers, mechanics or materialmen without the express written consent of the Agent.

(d) Notwithstanding anything in any Approved Budget, the Borrower shall not make any disbursements or payments of any kind (including by way of set off) with respect to any Indebtedness or other obligations arising on or before the Petition Date owed by the Borrower to any direct or indirect parent company or equity holder of the Borrower without the express written consent of the Agent.

(e) Notwithstanding anything in any Approved Budget, the Borrower shall not make any disbursements or payments of any kind (including by way of set off) with respect to any employee incentive expenses or severance without the express written consent of the Agent.

(f) The Borrower shall not, without the express written consent of the Agent, use proceeds of Loans or Cash Collateral with respect to any line item for any calendar month in the Approved Budget in an amount in excess of the amount budgeted for such line item in such month in the Approved Budget; provided that (i) there shall be a permitted variance of 10% for any line item listed in any month in the Approved Budget (but excluding restructuring-related charges, professional fees and expenses and debt service) in excess of the amount of such line item in the Approved Budget for such month, (ii) there shall be a permitted variance of 5% in the aggregate for all expenditures listed in any month in the Approved Budget (but excluding restructuring-related charges, professional fees and expenses and debt service) in excess of the aggregate amount of expenditures in the Approved Budget for such month (but excluding restructuring-related charges, professional fees and expenses and debt service), (iii) any expenditure set forth in the line item "direct bill invoices" may be paid in a period prior to the period for which such expenditure appears in the Approved Budget, (iv) the Borrower may use proceeds of Loans or Cash Collateral to pay reasonable and documented unpaid fees and expenses incurred by estate professionals retained by the Borrower pursuant to Section 327 or 328 of the Bankruptcy Code (the "**Borrower's Professional Fees**"), to the extent allowed by the Bankruptcy Court at any time, whether by interim order, final order, procedural order or otherwise, in excess of the amount budgeted for such Borrower's Professional Fees for such month in the Approved Budget, including any carry forward amounts as provided for herein and (v) any amounts or expenses listed in any line item in the Approved Budget that are unused in any month may be carried over and used by the Borrower in any subsequent month for such line item.

(g) For the avoidance of doubt: “disbursements” shall include all uses of cash of any kind, including, without limitation, investments, capital expenditures and repayments of Indebtedness (other than repayments of debt under this Agreement); and “receipts” shall not include borrowings, tax refunds or other extraordinary receipts.

Section 6.06 Amendments of Prepetition and Postpetition Agreements. The Borrower will not waive, amend, supplement, modify, terminate or release the provisions of (i) any Prepetition Indebtedness or any document, agreement or instrument evidencing, creating or guaranteeing such Indebtedness (including, without limitation, the Prepetition Loan Documents) or (ii) any document, agreement or instrument evidencing, creating or governing any Postpetition Indebtedness or any other material Prepetition or Postpetition agreement if, in the case of clauses (i) and (ii), the same is materially adverse to the interests of any of the Secured Parties.

Section 6.07 Use of Proceeds. The Borrower will not, directly or indirectly, use proceeds of the Postpetition Facility or any Collateral (including Cash Collateral) to (i) investigate or pursue any claims, causes of action, defenses, counterclaims, litigation or discovery against the Agent, any of the Lender, the Prepetition Agent or the Prepetition Lenders (or their respective agents, professionals, employees, officers, subsidiaries, Affiliates or other similar Persons) or (ii) pay any or all claims for fees and expenses of any other person or entity in connection with the investigation of, the assertion of or joinder in any claim, cause of action, counterclaim, action, proceeding, application, litigation, motion, objection, defense or other contested matter, the purpose of which is to seek or the result of which would be to obtain any order, judgment, determination, declaration or similar relief: (x) invalidating, setting aside, avoiding, recharacterizing or subordinating, in whole or in part, any claim, indebtedness, liens and/or security interests of the Agent, any of the Lender, the Prepetition Agent, or any of the Prepetition Lenders (other than, in the case of the Prepetition Agent and the Prepetition Lenders, to the extent permitted by the Orders); (y) objecting to or commencing any action that prevents or delays the exercise by the Agent, any of the Lender, the Prepetition Agent or the Prepetition Lenders of any of their respective rights and remedies under any agreement or document or the Interim Order or the Final Order (other than, in the case of the Prepetition Agent and the Prepetition Lenders, to the extent permitted by the Orders); or (z) seeking any affirmative legal or equitable remedy against the Agent, any of the Lender, the Prepetition Agent or the Prepetition Lenders (or their respective agents, professionals, employees, officers, subsidiaries, Affiliates or other similar Persons) (other than, in the case of the Prepetition Agent and the Prepetition Lenders, to the extent permitted by the Orders).

Section 6.08 Final Bankruptcy Court Order; Administrative Priority; Lien Priority; Payment of Claims.

The Borrower will not:

(a) at any time, seek or consent to any reversal, modification, amendment, stay or vacation of the Interim Order or the Final Order;

(b) at any time, seek or consent to a priority for any administrative expense or unsecured claim against the Borrower (now existing or hereafter arising) of any kind or nature whatsoever, including, without limitation, any administrative expenses of the kind specified in, or arising or ordered under, Sections 105(a), 326, 328, 330, 331, 503(b), 506(c), 507, 546(c), 726, 1113 and 1114 of the Bankruptcy Code equal or superior to the priority of the Secured Parties in respect of the Obligations, except as provided in Section 2.12(a);

(c) prior to the date on which the Obligations (other than any contingent indemnity or expense reimbursement obligations for which no claim has been made) have been paid in cash in full (or otherwise satisfied pursuant to the Acceptable Sale Process) and the Commitment has been cancelled and terminated, (i) pay any administrative expense claims of the Borrower or the Debtor except (A) the

Obligations then due and payable hereunder or (B) other administrative expense and professional fees and expenses and claims set forth in the Approved Budget, in each case to the extent and having the order of priority set forth in the Orders or (ii) file with the Bankruptcy Court any alternative debtor-in-possession financing proposal that does not provide for the Obligations and the Prepetition Facility Obligations to be paid in cash in full and for the Commitment to be cancelled and terminated; or

(d) seek or consent to a sale of any material portion of the Collateral unless all of the Obligations and Prepetition Facility Obligations are to be paid (or repaid) from the proceeds thereof pursuant to the Acceptable Sale Process.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.01 Events of Default. One or more of the following events shall constitute an “*Event of Default*”:

(a) the Borrower shall fail to pay any principal of or interest on any Loan or any other amount payable under any Loan Document, 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 and such failure shall continue unremedied for a period of five days or more;

(b) any representation or warranty made by Borrower in this Agreement or any other Loan Document or any amendment, modification or waiver under any Loan Document or in any certificate or other document furnished pursuant to or in connection with this Agreement or any other Loan Document, or any amendment, modification or waiver relating to them, shall prove to have been incorrect in any material respect when made;

(c) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, Section 5.06, Section 5.10, Section 5.12, or in Article VI;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those that would constitute an Event of Default under Section 7.01(a) or Section 7.01(c)), and such failure to perform shall continue unremedied for a period of 30 days after the earlier to occur of (i) notice thereof from the Agent to the Borrower (which notice will be given at the request of the Lender) and (ii) the Borrower otherwise becoming aware of the failure;

(e) any of the Loan Documents 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 party to those agreements or shall be repudiated by any party thereto, or cease to create a valid and perfected Lien of the priority required thereby on any material portion of the collateral purported to be covered thereby, except to the extent permitted by the terms of this Agreement, or any party to a Loan Document shall so state in writing;

(f) the Chapter 11 Case shall be dismissed (which dismissal does not require as a condition to such dismissal the termination of the Lender’ Commitment and the payment in full in cash of all Obligations and the Prepetition Facility Obligations) or converted to a case under Chapter 7 of the Bankruptcy Code or the Borrower shall file a motion or other pleading seeking the dismissal or conversion of the Chapter 11 Case under Section 1112 of the Bankruptcy Code or otherwise without the consent of the Lender; the Borrower shall authorize a liquidation of the Debtor’s Properties, except pursuant to the Acceptable Sale Process; or an application shall be filed by the Borrower for the approval of any other Superpriority Claim (other than the Carve-Out, which shall have a Superpriority Claim ranking senior to the Obligations, and which shall be paid by the Borrower at the times and in the amounts permitted by an

order of the Bankruptcy Court consistent with Section 2.12(a) in the Chapter 11 Case which is senior to the claims of the Secured Parties against the Borrower hereunder or under any of the other Loan Documents if it is not used to repay the Obligations and the Prepetition Facility Obligations in full in cash, or there shall arise or be granted any such senior Superpriority Claim;

(g) the Bankruptcy Court shall enter an order or orders granting relief from the automatic stay applicable under Section 362 of the Bankruptcy Code pertaining to the Collateral to the holder or holders of any security interest to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of the Borrower in an amount exceeding \$[250,000], individually or in the aggregate;

(h) (i) the Final Order Entry Date shall not have occurred on or prior to the date occurring 30 days after entry of the Interim Order, (ii) an order of the Bankruptcy Court shall be entered reversing, amending, supplementing, staying, vacating or otherwise amending, supplementing or modifying the Interim Order and/or the Final Order without the prior written consent of the Lender or the Borrower shall apply for authority to do so, without the prior written consent of the Lender, (iii) an order with respect to the Chapter 11 Case shall be entered by the Bankruptcy Court without the express prior written consent of the Lender to permit any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to the Borrower equal or superior to the priority of the Secured Parties in respect of the Obligations except as otherwise provided in this Agreement, (iv) an order of the Bankruptcy Court shall be entered permitting the grant of a Lien on the Collateral (other than Excepted Liens), (v) the Interim Order and/or the Final Order shall cease to create a valid and perfected first priority Lien (subject to Excepted Liens) on the Collateral or otherwise cease to be valid and binding and in full force and effect, (vi) Borrower shall fail to comply with any material provision (or any provision in such a way as is materially adverse to the interests of the Secured Parties) of the Interim Order and/or the Final Order, (vii) Borrower shall seek any modification of the Interim Order and/or the Final Order or assert in any pleading filed in any court that any material provision of the Interim Order and/or the Final Order is not valid and binding for any reason or otherwise modifying the Interim Order and/or the Final Order in a manner adverse to the Secured Parties, or (viii) the Borrower is enjoined, restrained or in any way prevented by court order from continuing or conducting all or any material part of the Debtor's business or affairs; or

(i) except as permitted by this Agreement, the Orders, the Approved Budget or as otherwise agreed to by the Lender, the Borrower shall make (or shall have made) any Prepetition Payment other than Prepetition Payments authorized by the Bankruptcy Court in accordance with orders of the Bankruptcy Court entered with the consent of (or non-objection by) the Lender; or

(j) the Bankruptcy Court shall (i) enter an order avoiding or requiring disgorgement by the Secured Parties of any amounts received in respect of the Obligations or (ii) enter an order authorizing or directing payment of any claim or claims under Section 506(c) or 552(b) of the Bankruptcy Code against or with respect to any of the Collateral; or

(k) the Bankruptcy Court shall enter an order or orders to sell, transfer, lease, exchange, alienate or otherwise dispose of any assets, or properties of the Borrower pursuant to Section 363 of the Bankruptcy Code other than pursuant to an Acceptable Sale Process without the consent of (i) the Lender unless such order or orders contemplate the repayment in full in cash of and termination in full of all Commitment and Obligations under this Agreement and (ii) the Prepetition Lenders unless such order or orders contemplate the repayment in full in cash of the Prepetition Facility Obligations, in each case upon consummation of such sale, transfer, lease, exchange, alienation or other disposition; or

(l) the Borrower shall (i) take any action in support of any matter set forth in Section 7.01(f), (h), (i), (j) or (k) or any other Person shall do so and such application is not contested in good faith

by the Borrower and the relief requested is granted in an order that is not stayed pending appeal, (ii) file a motion, pleading or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the Secured Parties or a determination by a court with respect to a motion, pleading or proceeding brought by another party which results in such a material impairment, (iii) file a motion in the Chapter 11 Case (A) to use Cash Collateral under Section 363(c) of the Bankruptcy Code without the consent of the Lender and the Prepetition Lenders, (B) to obtain additional financing under Sections 364(c) or (d) of the Bankruptcy Code not otherwise permitted under this Agreement or (C) to take any other action or actions adverse to any of the Secured Parties or Prepetition Secured Parties or their rights and remedies hereunder or under any of the other Loan Documents, the Prepetition Loan Documents or the Orders, or any Secured Party's or Prepetition Secured Party's interest in any of the Collateral, except that the Borrower is entitled to conduct the Acceptable Sale Process in a manner consistent with the Bid Procedures, or (iv) file any plan of reorganization or liquidation that is not approved by the Secured Parties unless such plan of reorganization or liquidation provides for (A) the repayment in full in cash of and termination in full of all Commitment and Obligations under the Postpetition Facility and (B) the repayment in full in cash of the Prepetition Facility Obligations on the effective date of such plan;

(m) the Borrower shall use proceeds of Loans or Cash Collateral to pay Borrower's Professional Fees (i) without the prior entry of an interim order, final order or procedural order of the Bankruptcy Court approving the payment of such Borrower's Professional Fees or (ii) in excess of the amount budgeted for such Borrower's Professional Fees for such month in the Approved Budget, subject to the Borrower's right to carry forward amounts as set forth in Section 6.05(f); or

(n) Gerald H. Schiff shall resign or otherwise cease to act as Chapter 11 Trustee.

Section 7.02 Remedies.

(a) In the case of an Event of Default at any time thereafter during the continuance of such Event of Default, the Agent may, and at the request of the Lender, and without any action or approval of the Bankruptcy Court, after 5 days' written notice to the Borrower and the Office of the United States Trustee for the District of Delaware, shall, by notice to the Borrower, take either or both of the following actions (without limiting the Agent's and the Lender's rights under Section 7.02(b)), at the same or different times: (i) terminate the Commitment, and thereupon the Commitment shall terminate immediately, and (ii) declare the Note and 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 and all fees and other obligations of the Borrower hereunder and under the Note and 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. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, any notice or cure period provided for in this Agreement or any other Loan Document shall run concurrently with any notice or cure period provided for under applicable Law.

(b) In the case of the occurrence of an Event of Default, the Secured Parties will have all other rights and remedies available at Law and equity subject to the applicable terms of the Security Documents.

(c) In addition, upon expiration of the five day notice period referred to in clause (a) above, the automatic stay provided in Section 362 of the Bankruptcy Code shall be deemed automatically vacated without further action or order of the Bankruptcy Court, and the Agent (at the direction of the Lender) shall be entitled, in its sole discretion, to exercise all of its respective rights and remedies under the Loan Documents.

(d) All proceeds realized from the liquidation or other disposition of collateral or otherwise received after maturity of the Note, whether by acceleration or otherwise or any other amounts received on accounts of the Obligations (in each case, net of any amounts required to be paid in respect of (and in any amount not to exceed) the Carve-Out pursuant to the Orders), shall be applied:

- (i) *first*, to payment or reimbursement of that portion of the Obligations constituting fees, expenses and indemnities payable to the Agent in its capacity as such;
- (ii) *second*, pro rata to payment or reimbursement of that portion of the Obligations constituting fees, expenses and indemnities payable to the Lender;
- (iii) *third*, pro rata to payment of accrued interest on the Loans;
- (iv) *fourth*, pro rata to payment of principal outstanding on the Loans; and
- (v) *fifth*, any excess, after all of the Obligations shall have been indefeasibly paid in full in cash, (i) to the payment of the Prepetition Facility Obligations in accordance with the terms of the Prepetition Loan Documents and (ii) to the extent any balance remains after the payments are made pursuant to immediately preceding clause (i), to whomever may be lawfully entitled to receive such surplus as determined by the Bankruptcy Court.

ARTICLE VIII

THE AGENT

Section 8.01 Appointment; Powers. The Lender hereby irrevocably appoints the Agent as its agent and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Section 8.02 Duties and Obligations of Agent. The Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Agent shall not 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 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) the Agent shall have no duty to take any discretionary action or exercise any discretionary powers, except as provided in Section 8.03, and (c) except as expressly set forth herein, the Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower that is communicated to or obtained by the bank serving as Agent or any of its Affiliates in any capacity. The Agent shall be deemed not to have knowledge of any Default unless and until notice thereof is given to the Agent by the Borrower or the Lender, and shall not be responsible for or have any duty to ascertain or inquire into (t) any statement, warranty or representation made in or in connection with this Agreement or any Loan Document, (u) the contents of any certificate, report or other document delivered under this Agreement or under any other Loan Document or in connection herewith or therewith, (v) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in this Agreement or in any other Loan Document, (w) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, (x) the satisfaction of any condition set forth in Article III or elsewhere in this Agreement, other than to confirm receipt of items expressly required to be delivered to the Agent or as to those conditions precedent expressly required to be to the Agent’s satisfaction, (y) the existence, value, perfection or priority of

any collateral security or the financial or other condition of the Borrower or any other obligor or guarantor, or (z) any failure by the Borrower or any other Person (other than itself) to perform any of its obligations under this Agreement or under any Loan Document or the performance or observance of any covenants, agreements or other terms or conditions set forth in this Agreement or in that other Loan Document.

Section 8.03 Action by Agent. The Agent shall have no duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by this Agreement or by the other Loan Documents that the Agent is required to exercise in writing as directed by the Lender (or such other number or percentage of the Lender as shall be necessary under the circumstances as provided in Section 9.02) and in all cases the Agent shall be fully justified in failing or refusing to act under this Agreement or under any other Loan Document unless it shall (a) receive written instructions from the Lender specifying the action to be taken and (b) be indemnified to its satisfaction by the Lender against any and all liability and expenses that may be incurred by it by reason of taking or continuing to take any such action. The instructions and any action taken or failure to act pursuant to them by the Agent shall be binding on all of the Lender. If a Default has occurred and is continuing, then the Agent shall take such action with respect to the Default as shall be directed by the Lender in the written instructions (with indemnities) described in this Section 8.03, provided, however, that, unless and until the Agent shall have received such directions, the 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 Lender. In no event, however, shall the Agent be required to take any action that exposes the Agent to personal liability or which is contrary to this Agreement, the Loan Documents or applicable Law. The Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Lender or the Lender (or such other number or percentage of the Lender as shall be necessary under the circumstances as provided in Section 9.02), and otherwise the Agent shall not 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.

Section 8.04 Reliance by Agent. The 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 it to be genuine and to have been signed or sent by the proper Person. The 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 on the foregoing, and each of the Borrower and the Lender hereby waives the right to dispute the Agent's record of such statement, except in the case of gross negligence or willful misconduct by the Agent, **BUT INCLUDING ORDINARY NEGLIGENCE**. The Agent may consult with legal counsel (who may be counsel for the Borrower or the Lender), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Agent may deem and treat the payee of any Note as holder for all purposes unless and until a notice of the assignment or transfer thereof permitted hereunder shall have been filed with the Agent.

Section 8.05 Sub-agents. The 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 the Agent. The Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding Sections of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for in this Agreement as well as activities as Agent.

Section 8.06 Resignation or Removal of Agent. Subject to the appointment and acceptance of a successor Agent as provided in this Section 8.06, the Agent may resign at any time by notifying the Lender and the Borrower, and the Agent may be removed at any time with or without cause by the Lender. Upon any such resignation or removal, the Lender shall have the right to appoint a successor. If no successor shall have been so appointed by the Lender and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation or removal of the retiring Agent, then the retiring Agent may, on behalf of the Lender, appoint a successor Agent. Upon the acceptance of its appointment as Agent by a successor, the 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 under the Loan Documents. 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 the successor. After the Agent's resignation, the provisions of this Article VIII and Section 9.03 shall continue in effect for the benefit of the 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 8.07 Agent as the Lender. Each Person serving as an Agent shall have the same rights and powers in its capacity as the Lender as any other Lender and may exercise the same as though it were not an Agent, and such Person and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any of its Affiliates as if it were not the Agent.

Section 8.08 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 the Borrower, the Agent (irrespective of whether the principal of any Loan shall then be due and payable or by declaration or otherwise and irrespective of whether the 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 Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable to have the claims of the Lender and the Agent (including any claim for the compensation, expenses, disbursements and advances of the Lender and the Agent and their respective agents and counsel and all other amounts due the Lender and the Agent under Section 9.03) 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 the Lender to make those payments to the Agent and, in the event that the Agent shall consent to the making of those payments directly to the Lender, to pay to the Agent any amount due for the compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Section 9.03. Nothing contained in the Loan Documents shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of the Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of the Lender or to authorize the Agent to vote in respect of the claim of the Lender in any such proceeding.

Section 8.09 Authority of Agent to Release Collateral and Liens. Each Lender hereby authorizes the 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 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 sale or other disposition of property to the extent that the sale or other disposition is permitted by the terms of Section 6.01 or is otherwise authorized by the terms of the Loan Documents.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to Section 9.01(b)), all notices and other communications provided for in the Loan Documents shall be in writing and shall be delivered by hand or overnight courier service or sent by facsimile transmission to it as follows:

(i) If to the Borrower, at:

[•]

(ii) If to the Agent, at:

CLMG Corp.
7195 Dallas Parkway
Plano, Texas 75024
Attention: James Erwin
Facsimile: (469) 467-5550

(iii) If to Beal Bank USA, as Lender, at:

c/o CLMG Corp.
7195 Dallas Parkway
Plano, Texas 75024
Attention: James Erwin
Facsimile: (469) 467-5550

(b) Notices and other communications to the Lender under the Loan Documents may be delivered or furnished by electronic communications pursuant to procedures approved by the Agent; provided, however, that the foregoing shall apply to notices pursuant to Article II only if otherwise agreed by the Agent and the Lender. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it under the Loan Documents by electronic communications pursuant to procedures approved by it; provided, however, that approval of such procedures may be limited to particular notices or communications.

(c) Any party to the Loan Documents may change its address or telecopy number for notices and other communications under by notice to the other parties to the Loan Documents. All notices and other communications given to any party to the Loan Documents in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 9.02 Waivers; Amendments.

(a) No failure on the part of the Agent or the 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 any such right, power or privilege, under any of the Loan Documents

shall operate as a waiver of any such right, power or privilege, nor shall any single or partial exercise of any right, power or privilege under any of the Loan Documents preclude its subsequent or further exercise or the exercise of any other right, power or privilege. The rights and remedies of the Secured Parties under the 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 from their provisions shall in any event be effective unless the same shall be permitted by Section 9.02(b), and then the 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 Agent or the Lender may have had notice or knowledge of the Default at the time.

(b) Neither any Loan Document nor any provision of any Loan Document may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Lender or by the Borrower and the Agent with the consent of the Lender.

Section 9.03 Expenses, Indemnity; Damage Waiver.

(a) The Borrower shall pay from Repayment Sources (i) all reasonable out-of-pocket expenses incurred by the Agent and its Affiliates prior to or in connection with Closing, including the fees, charges and disbursements of counsel and other outside consultants for the Agent, the travel, photocopy, mailing, courier, telephone and other similar expenses, the cost of insurance, engineering and other due diligence review, the cost of reports to monitor the Properties, and the cost of environmental invasive and non-invasive assessments and audits and surveys and appraisals, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and any amendments, modifications or waivers of or consents related to their provisions (regardless of whether the transactions contemplated by the Loan Documents shall be consummated), (ii) all reasonable costs, expenses, Taxes, assessments and other charges incurred by the Agent or the Lender prior to or in connection with the Closing 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 in them, (iii) all reasonable out-of-pocket expenses incurred by the Agent and its Affiliates, including the fees, charges and disbursements of any counsel for the Agent, in connection with any amendment, waiver, consent or similar event in connection with this Agreement or any other Loan Document and (iv) all reasonable out-of-pocket expenses incurred by the Agent and its Affiliates or the Lender, including the fees, charges and disbursements of any counsel for the Agent or the Lender, in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section 9.03, or in connection with the Loans made, including, all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Loans.

(b) THE BORROWER SHALL FROM REPAYMENT SOURCES AND THE COLLATERAL INDEMNIFY THE AGENT 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 BY THEM, THE PERFORMANCE BY THE PARTIES TO ANY LOAN DOCUMENT OF THEIR RESPECTIVE OBLIGATIONS UNDER THE LOAN DOCUMENTS OR THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THE LOAN DOCUMENTS, (ii) THE FAILURE OF THE BORROWER TO COMPLY WITH THE TERMS OF ANY LOAN

DOCUMENT, INCLUDING THIS AGREEMENT, OR WITH ANY LAW, (iii) ANY INACCURACY OF ANY REPRESENTATION OR ANY BREACH OF ANY WARRANTY OR COVENANT OF THE BORROWER SET FORTH IN ANY OF THE LOAN DOCUMENTS OR ANY INSTRUMENTS, DOCUMENTS OR CERTIFICATIONS DELIVERED IN CONNECTION WITH THEM, (iv) ANY LOAN OR THE USE OF THE PROCEEDS FROM THE LOANS, (v) ANY OTHER ASPECT OF THE LOAN DOCUMENTS, (vi) THE OPERATIONS OF THE BUSINESS OF THE DEBTOR OR ANY OF ITS AFFILIATES, (vii) ANY ASSERTION THAT THE LENDER WAS NOT ENTITLED TO RECEIVE THE PROCEEDS RECEIVED PURSUANT TO THE SECURITY DOCUMENTS, (viii) ANY ENVIRONMENTAL LAW APPLICABLE TO THE DEBTOR OR ANY OF ITS AFFILIATES OR ANY OF ITS PROPERTIES OR OPERATIONS, INCLUDING THE PRESENCE, GENERATION, STORAGE, RELEASE, THREATENED RELEASE, USE, TRANSPORT, DISPOSAL, ARRANGEMENT OF DISPOSAL OR TREATMENT OF HAZARDOUS MATERIALS ON, AT OR FROM ANY OF ITS PROPERTIES, (ix) THE BREACH OR NON-COMPLIANCE BY THE BORROWER OR THE DEBTOR WITH ANY ENVIRONMENTAL LAW APPLICABLE TO THE DEBTOR OR ANY OF ITS AFFILIATES, (x) ANY ENVIRONMENTAL LIABILITY RELATED IN ANY WAY TO THE DEBTOR OR ANY OF ITS AFFILIATES, (xi) ANY OTHER ENVIRONMENTAL, HEALTH OR SAFETY CONDITION IN CONNECTION WITH THE LOAN DOCUMENTS, OR (xii) ANY ACTUAL OR PROSPECTIVE CLAIM, LITIGATION, INVESTIGATION OR PROCEEDING RELATING TO ANY OF THE FOREGOING, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY AND REGARDLESS OF WHETHER ANY INDEMNITEE IS A PARTY TO THIS AGREEMENT. THIS 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, HOWEVER, THAT SUCH INDEMNITY SHALL NOT, AS TO ANY INDEMNITEE, BE AVAILABLE TO THE EXTENT OF LOSSES, CLAIMS, DAMAGES, LIABILITIES OR RELATED EXPENSES DETERMINED BY A COURT OF COMPETENT JURISDICTION BY FINAL AND NONAPPEALABLE JUDGMENT TO HAVE RESULTED FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTICULAR INDEMNITEE.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Agent under Section 9.03(a) or (b), the Lender agrees to pay to the Agent such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of the 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 Agent in its capacity as such; provided, however, that if the Agent recovers any unreimbursed amounts from the Borrower after payment by the Lender as provided for above, then the Agent pay the Lender its Applicable Percentage of the recovered amount (net of the costs and expenses of the Agent).

(d) TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS: (A) NONE OF THE AGENT, THE LENDER OR ANY INDEMNITEE SHALL BE LIABLE TO THE BORROWER OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THEIR RESPECTIVE ACTIVITIES RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, THE TRANSACTIONS CONTEMPLATED THEREBY, THE LOANS OR OTHERWISE IN CONNECTION WITH THE FOREGOING PROVIDED, HOWEVER, THAT DAMAGES THAT AN INDEMNITEE OWES TO A THIRD PARTY SHALL BE DEEMED TO BE ACTUAL AND DIRECT DAMAGES; (B) WITHOUT LIMITING THE FOREGOING, NONE OF THE AGENT, THE LENDER OR ANY

INDEMNITEE SHALL BE SUBJECT TO ANY EQUITABLE REMEDY OR RELIEF, INCLUDING SPECIFIC PERFORMANCE OR INJUNCTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY THE LOANS OR OTHERWISE IN CONNECTION WITH THE FOREGOING; (C) NONE OF THE AGENT, THE LENDER OR ANY INDEMNITEE SHALL HAVE ANY LIABILITY TO THE BORROWER, FOR DAMAGES OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY; AND (D) IN NO EVENT SHALL LENDER'S LIABILITY TO THE BORROWER FOR FAILURE TO FUND ANY LOAN EXCEED ACTUAL DIRECT DAMAGES INCURRED BY THE BORROWER OF UP TO \$5,000,000 IN THE AGGREGATE.

(e) All amounts due under this Section 9.03 shall be payable not later than five Business Days after written demand therefor.

Section 9.04 Successors and Assigns.

(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 by this Agreement. The Borrower may not assign or otherwise transfer any of its rights or obligations under any of the Loan Documents without the prior written consent of the Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void). No Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 9.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties to this Agreement, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent and the Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in Section 9.04(b)(ii), the Lender may assign to an assignees all of its rights and obligations under this Agreement (including all of the Commitment and the Loans at the time owing to it) with the prior written consent the Agent; provided, however, that no consent of the Agent shall be required for an assignment to an assignee that is an Affiliate of the Lender immediately prior to giving effect to the assignment.

(ii) Subject to Section 9.04(b)(iv) and the acceptance and recording of the Assignment and Assumption, from and after the effective date specified in an Assignment and Assumption the assignee shall be a party to this Agreement and, to the extent of the interest assigned by the Assignment and Assumption, have the rights and obligations of the Lender under this Agreement, and the assigning Lender shall, to the extent of the interest assigned by the 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, the assigning Lender shall cease to be a party to this Agreement but shall continue to be entitled to the benefits of Section 2.11, **Section 2.11**, Section 2.15 and Section 9.03).

(iii) The Agent, acting for this purpose as an 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 Lender, and the Commitment of, and principal amount of the Loans the Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, and the Borrower, the Agent and the Lender may treat each Person whose name is recorded in the Register pursuant to the terms of this Agreement as the Lender for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and the Lender at any reasonable time and from time to time upon reasonable prior notice. In connection with any changes to the

Register, if necessary, the Agent will reflect the revisions on Annex I and forward a copy of such revised Annex I to the Borrower and the Lender.

(iv) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the processing and recordation fee referred to in Section 9.04(b)(ii)(C) and any written consent to the assignment required by Section 9.04(a), the Agent shall accept the Assignment and Assumption and record the information contained in it in the Register. An assignment shall be effective for purposes of this Agreement only if and when it has been recorded in the Register as provided in Section 9.04(b)(iv).

(c) 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 the Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or Federal Home Loan Bank, and this Section 9.04(c) shall not apply to any such pledge or assignment of a security interest; provided, however, that no such pledge or assignment of a security interest shall release the Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party to this Agreement.

(d) Notwithstanding any other provisions of this Section 9.04, no transfer or assignment of the interests or obligations of the Lender shall be permitted if such transfer, assignment or grant would require the Borrower to file a registration statement with the Securities and Exchange Commission (or any successor Governmental Authority) or to qualify the Loans under the "Blue Sky" Laws of any state.

Section 9.05 Survival; Revival; Reinstatement.

(a) All covenants, agreements, representations and warranties made by the Borrower in the Loan Documents 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 to this Agreement 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 Agent or the Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan is made, 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 unpaid and so long as the Commitment has not expired or terminated. The provisions of Section 2.10, Section 2.11, Section 2.15, Section 7.02, Article VIII and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated by the Loan Documents, the repayment of the Loans and the Commitment or the termination of this Agreement, any other Loan Document or any of their provisions.

(b) To the extent that any payments on the 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 that extent, the Obligations so satisfied shall be revived and continue as if the payment or proceeds had not been received and the Agent's and the Lender's Liens, security interests, rights, powers and remedies under this Agreement and each Loan Document shall continue in full force and effect. In such an event, each Loan Document shall be automatically reinstated and the Borrower shall take such action as may be requested by the Agent and the Lender to effect the reinstatement.

Section 9.06 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties to this Agreement on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

(b) This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Agent constitute the entire contract among the parties relating to the subject matter of the Loan Documents and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter of the Loan Documents. This Agreement and the other Loan Documents represent the final agreement among the parties to the Loan Documents 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.

(c) Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Agent and when the Agent shall have received counterparts that, when taken together, bear the signatures of each of the other parties to this Agreement, and thereafter shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.07 Severability. Any provision of this Agreement or any other Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of the Loan Documents; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate that provision in any other jurisdiction.

Section 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, the 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 set off 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 the Lender or Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower owed to the Lender now or subsequently 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 those obligations may be unmaturing. The rights of the Lender under this Section 9.08 are in addition to other rights and remedies (including other rights of setoff) which such Lender or its Affiliates may have.

Section 9.09 GOVERNING LAW; JURISDICTION; CONSENT TO SERVICE OF PROCESS.

(a) EXCEPT TO THE EXTENT (IF ANY) PROVIDED OTHERWISE IN A PARTICULAR LOAN DOCUMENT, THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA.

(b) EACH PARTY TO THIS AGREEMENT IRREVOCABLY AGREES THAT, EXCEPT AS OTHERWISE SET FORTH IN THIS PARAGRAPH, THE BANKRUPTCY COURT, OR IN THE EVENT THE BANKRUPTCY COURT DOES NOT HAVE OR DOES NOT EXERCISE JURISDICTION, ANY STATE OR U.S. FEDERAL COURT SITTING IN THE STATE OF [TEXAS] IN AND FOR DALLAS COUNTY OR THE UNITED STATES DISTRICT COURT FOR THE [NORTHERN DISTRICT OF TEXAS], SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY SUIT, ACTION OR PROCEEDING AND TO SETTLE ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND, FOR SUCH PURPOSES, IRREVOCABLY SUBMITS TO THE JURISDICTION OF SUCH 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, THAT IT NOW OR SUBSEQUENTLY MAY HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN THE COURTS SPECIFIED ABOVE. IN THE CASE OF THE BORROWER ONLY, THIS SUBMISSION TO JURISDICTION IS NON-EXCLUSIVE AND DOES NOT PRECLUDE A PARTY FROM OBTAINING JURISDICTION OVER THE BORROWER IN ANY OTHER COURT OTHERWISE HAVING JURISDICTION.

(c) EACH PARTY TO THIS AGREEMENT IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE COURTS SPECIFIED ABOVE IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO IT AT THE ADDRESS SPECIFIED IN SECTION 9.01 OR SUCH OTHER ADDRESS AS IS SPECIFIED PURSUANT TO SECTION 9.01 (OR ITS ASSIGNMENT AND ASSUMPTION), WHICH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER MAILING. THIS SECTION 9.09(C) SHALL NOT AFFECT THE RIGHT OF A PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANOTHER PARTY IN ANY APPROPRIATE JURISDICTION.

(d) EACH PARTY TO THIS AGREEMENT HEREBY (i) KNOWINGLY, VOLUNTARILY, INTENTIONALLY, 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 IN ANY SUCH PROCEEDING; (ii) CERTIFIES THAT NO PARTY TO THIS AGREEMENT OR ANY REPRESENTATIVE OR AGENT OF COUNSEL FOR ANY PARTY TO THIS AGREEMENT HAS REPRESENTED, EXPRESSLY OR OTHERWISE, OR IMPLIED THAT PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, (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 9.09, AND (iv) ACKNOWLEDGES THAT THIS SECTION 9.09 WAS NEGOTIATED BY IT AND THAT ITS COUNSEL HAS HAD AN OPPORTUNITY TO REVIEW THIS AGREEMENT.

Section 9.10 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 9.11 Interest Rate Limitation. It is the intention of the parties to this Agreement that the Lender shall conform strictly to usury Laws applicable to it. Accordingly, if the transactions contemplated by the Loan Documents would be usurious as to the Lender under applicable Law (including the Laws of the United States of America and the State of Nevada or any other jurisdiction whose Laws may be mandatorily applicable the 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 Loans, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under Law applicable to the Lender that is contracted for, taken, reserved, charged or received by the Lender under any of the Loan Documents or agreements or otherwise in connection with the Note shall under no circumstances exceed the maximum amount allowed by that applicable Law, and any excess shall be canceled automatically and if previously paid shall be credited by the Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Lender to the Borrower); and (ii) in the event that the maturity of the Note is accelerated due to any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then any consideration that constitutes interest under applicable Law may never

include more than the maximum amount allowed by that applicable Law, and excess interest, if any, provided for in this Agreement or otherwise shall be canceled automatically by a particular Lender as of the date of acceleration or prepayment and, if previously paid, shall be credited by the Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Lender to the Borrower). All sums paid or agreed to be paid to the Lender for the use, forbearance or detention of sums due under the Loan Documents shall, to the extent permitted by Law applicable to the Lender, be amortized, prorated, allocated and spread throughout the stated term of the Loans evidenced by the Note until payment in full so that the rate or amount of interest on account of any Loans does not exceed the maximum amount allowed by that applicable Law. If at any time and from time to time (A) the amount of interest payable to the Lender on any date shall be computed at the Highest Lawful Rate applicable to such Lender pursuant to this Section 9.11 and (B) 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 the Lender computed at the Highest Lawful Rate applicable to the Lender, then the amount of interest payable to the Lender in respect of the subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to the Lender until the total amount of interest payable to the Lender shall equal the total amount of interest which would have been payable to the Lender if the total amount of interest had been computed without giving effect to this Section 9.11.

Section 9.12 EXCULPATION PROVISIONS. EACH OF THE PARTIES TO THIS AGREEMENT 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 AND THE OTHER LOAN DOCUMENTS; 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 TRANSACTIONS AND RELIEVING THE OTHER PARTY OF ITS RESPONSIBILITY FOR SUCH THAT LIABILITY. EACH PARTY TO THIS AGREEMENT 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 9.13 No Third Party Beneficiaries. This Agreement, the other Loan Documents, and the agreement of the Lender to make Loans are solely for the benefit of the Borrower, and no other Person (including any obligor, contractor, subcontractor, supplier or materialsman) shall have any rights, claims, remedies or privileges under any Loan Document against the Agent or the Lender for any reason whatsoever. Except for indemnities and waivers of the Borrower in this Article IX, there are no third party beneficiaries.

Section 9.14 USA Patriot Act Notice. Each Lender hereby notifies the Borrower that, pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Act.

Section 9.15 Confidentiality. Each of the Agent and the Lender 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 or any self-regulatory authority, (c) to the extent required by applicable Law 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 9.15, to any assignee of, or any prospective assignee of, any of its rights or obligations under this Agreement, (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 9.15 or (ii) becomes available to the Agent or the Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section 9.15, "Information" means all information received from the Borrower or any Affiliate relating to the Borrower or any Affiliate and their businesses, other than any such information that is available to the Agent, the Issuing Bank or the Lender on a nonconfidential basis prior to disclosure by the Borrower or any Affiliate; provided that, in the case of information received from the Borrower or any Affiliate after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 9.15 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.

Section 9.16 Orders. In the event of any inconsistency between the terms and conditions of any of the Loan Documents and the Interim Order or the Final Order, whichever is in effect at the time of reference thereto, the provisions of the Interim Order or the Final Order, as the case may be, shall govern and control.

Section 9.17 Parties Including Trustees; Bankruptcy Court Proceedings. This Agreement, the other Loan Documents, and all Liens and other rights and privileges created hereby or pursuant hereto or to any other Loan Document shall be binding upon the Borrower, the estates of the Borrower, and any trustee, other estate representative or any successor in interest of the Borrower in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code. This Agreement and the other Loan Documents shall be binding upon, and inure to the benefit of, the Lender and their respective assigns, transferees and endorsees. Until the Commitment has expired or have been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, the Liens created by this Agreement and the other Loan Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of any Chapter 11 Case or any other bankruptcy case of the Borrower to a case under Chapter 7 of the Bankruptcy Code or in the event of dismissal of any Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that any of the Secured Parties file financing statements or otherwise perfect their Liens under applicable law. Any such purported assignment, transfer, hypothecation or other conveyance by the Borrower without the prior express written consent of the Lender shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of the Borrower, the Lender and the other Secured Parties with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Loan Documents.

[SIGNATURES BEGIN NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

GERALD H. SCHIFF, not individually, but in his capacity as Chapter 11 Trustee of the bankruptcy estate of Bennu Titan LLC, as the Borrower

CLMG CORP., as Agent

By: _____

Name: _____

Title: _____

BEAL BANK USA, as the Lender

By: _____

Name: _____

Title: _____