EXHIBIT K

Form of Credit Agreement

CREDIT AND GUARANTY AGREEMENT

Dated as of April [___], 2015

among

LONGVIEW POWER, LLC
as Borrower

LONGVIEW INTERMEDIATE HOLDINGS C, LLC
as Holdings and as a Guarantor,

EACH OTHER GUARANTOR PARTY HERETO,

THE LENDERS FROM TIME TO TIME PARTY HERETO,

THE ISSUING BANKS FROM TIME TO TIME PARTY HERETO,

and

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent

Joint Lead Arrangers and Joint Bookrunners:

MORGAN STANLEY SENIOR FUNDING, INC.,

and

KKR CAPITAL MARKETS LLC

$325,000,000 Senior Secured Credit Facilities

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CREDIT AND GUARANTY AGREEMENT

This CREDIT AND GUARANTY AGREEMENT, dated as of April [___], 2015 (this "***Agreement***"), is entered into by and among LONGVIEW POWER, LLC, a Delaware limited liability company (the "***Borrower***"), LONGVIEW INTERMEDIATE HOLDINGS C, LLC, a Delaware limited liability company ("***Holdings***") as a Guarantor, THE OTHER GUARANTORS FROM TIME TO TIME PARTY HERETO, THE LENDERS FROM TIME TO TIME PARTY HERETO, MORGAN STANLEY BANK, N.A., as an Issuing Bank, and MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent for the Lender Parties (in such capacity, together with any successor Administrative Agent appointed pursuant to Article IX in such capacity, the "***Administrative Agent***").

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower and certain of its Affiliates are debtors under Chapter 11 of the Bankruptcy Code;

WHEREAS, on February 18, 2015, the Borrower and certain of its Affiliates filed that certain *Debtors' Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*, as modified pursuant to the Debtors' Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code (With Technical Modifications) filed on March 9, 2015;

WHEREAS, in connection with the proposed Plan of Reorganization, the Borrower has requested that the Lender Parties provide the senior secured loan facilities and letters of credit described herein in order to, among other things (i) to repay extensions of credit under its existing debtor-in-possession financing facility in an aggregate amount equal to $[●], (ii) to repay the Dunkard Creek Lender Claims (as defined in the Plan of Reorganization) in an aggregate amount equal to $[●], (iii) to fund the 2015 Outage Account (as defined below) in an aggregate amount equal to $[●], (iv) to provide up to $25,000,000 in the aggregate as cash collateral for Cash Collateralized Revolving LCs issued under one or more Cash Collateralized LC Facility Agreements, (v) to the extent not funded with a letter of credit, to fund the Debt Service Reserve Account, (vi) to pay administrative costs and expenses associated with the foregoing, (vii) to make a distribution on the Closing Date to the parent companies of Holdings in an amount equal to $[50,000,000] (the "***Closing Date Distribution***") and (viii) for the general corporate purposes of the Loan Parties;

WHEREAS, after giving effect to the proposed structuring, approximately 75% of the equity ownership interests in Holdings and the Borrower will be owned by members of the Steering Group;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.01. Certain Defined Terms. As used in this Agreement (including the preamble hereto and the preliminary statements hereto), the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"***2015 Outage Account***" has the meaning specified in the Depositary Agreement.

"***2015 Outage Expenses***" has the meaning specified in the Depositary Agreement.

"***Acceptable Bank***" means any commercial bank or financial institution having a long-term unsecured senior debt rating of at least Baal or better by Moody's and BBB+ or better by S&P.

"***Adjusted Eurodollar Rate***" means, for any Interest Rate Determination Date with respect to an Interest Period for Eurodollar Rate Advances, the rate *per annum* obtained by dividing (and rounding upward to the next whole multiple of 1/100 of 1%) (a) the fluctuating rate per annum equal to (x) the rate per annum determined by the Administrative Agent to be the offered rate for deposits in Dollars with a term equivalent to such Interest Period appearing on the page of the Reuters Screen which displays an average of the London interbank offered rate administered by the ICE Benchmark Administration, determined as of approximately 11:00 A.M. (London, England time) on such Interest Rate Determination Date or (y) if the rate in clause (x) above does not appear on such page or service or if such page or service is not available, the rate per annum determined by the Administrative Agent to be the offered rate for deposits in Dollars with a term equivalent to such Interest Period on such other page or other service which displays an average of the London interbank offered rate administered by the ICE Benchmark Administration, determined as of approximately 11:00 A.M. (London, England time) on such Interest Rate Determination Date or (z) if the rates in clauses (a)(x) and (a)(y) are not available, the rate per annum determined by the Administrative Agent to be the average offered quotation rate by major banks in the London interbank market for deposits in Dollars of principal amounts comparable to the Eurodollar Rate Advance for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such Interest Period by (b) an amount equal to (i) one *minus* (ii) the Applicable Reserve Requirement; *provided* that at no time shall the "Adjusted Eurodollar Rate" in respect of the Term B Advances be deemed to be less than 1.00% *per annum*; *provided*, *further*, that if any such rate determined pursuant to the preceding clauses (a)(x), (a)(y) or a(z) is below zero, the Adjusted Eurodollar Rate will be deemed to be zero.

"***Administrative Agent***" has the meaning specified in the preamble hereto.

"***Administrative Agent's Account***" means the account of the Administrative Agent specified by the Administrative Agent in writing to the Borrower and the Lender Parties from time to time.

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

"***Advance***" means, individually or collectively, as the context may require, a Term B Advance, a Working Capital Advance or an L/C Advance.

"***Adverse Proceeding***" means any action, written claim, suit, litigation, proceeding, hearing (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of the Loan Parties) at law or in equity, or before or by any Governmental Authority or arbitrator, domestic or foreign (including any Environmental Actions) whether pending or, to the knowledge of the Loan Parties, threatened in writing against the Loan Parties or any Property of the Loan Parties.

"***Affected Lenders***" has the meaning specified in Section 4.04(a).

"***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. For the purposes of this definition, "*control*" (including, with correlative meanings, the terms "*controlling*," "*controlled by*" and "*under common control with*"), as applied to any Person, means the possession, directly or indirectly, of the power (a) to vote 10% or more of the Securities having ordinary voting power for the election of directors of such Person or (b) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise; *provided, however,* that neither any Lender nor any Agent (nor any of their Affiliates) shall be deemed to be an Affiliate of Holdings, the Borrower or any of their respective Subsidiaries solely by virtue of its capacity as a Lender or Agent hereunder.

"***Affiliated Debt Fund***" means any person that (a) is not a Steering Group Member and (b) is an Affiliate of the Borrower or a Steering Group Member (other than Holdings and its Subsidiaries) that is a bona fide diversified debt fund either (i) with information barriers in place restricting the sharing of investment-related and other information between such Person, on the one hand, and the Borrower or related Steering Group Member (if applicable), on the other hand or (ii) whose managers have fiduciary duties to the investors of such fund independent of, or in addition to, their fiduciary duties to the investors in the Borrower or related Steering Group Member; *provided* that neither the Borrower nor any Steering Group Member, directly or indirectly, possesses the power to direct or cause the direction of the investment policies of any such Person.

"***Agent Parties***" has the meaning specified in Section 11.01(d)(ii).

"***Agents***" means, individually or collectively, as the context may require, the Administrative Agent, the Collateral Agent and the Depositary.

"***Aggregate Exposure***" means (a) the aggregate principal amount of the Advances outstanding at such time *plus* (b) the aggregate Available Amount of all Letters of Credit outstanding at such time *plus* (c) the aggregate amount of all Unused Revolving Commitments at such time.

"***Agreement***" has the meaning specified in the preamble hereto.

"***Anti-Money Laundering Laws***" means, collectively, (a) the Patriot Act and (b) any other law, regulation, order, decree or directive of any relevant jurisdiction having the force of law and relating to anti-money laundering.

"***Applicable Lending Office***" means, with respect to each Lender Party, such Lender Party's Domestic Lending Office in the case of a Base Rate Advance and such Lender Party's Eurodollar Lending Office in the case of a Eurodollar Rate Advance.

"***Applicable Margin***" means with respect to any Facility, 5.00% *per annum* for Base Rate Advances and 6.00*% per annum* for Eurodollar Rate Advances.

"***Applicable Percentage***" means with respect to any Lender, the percentage of the total Commitments represented by such Lender's Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments.

"***Applicable Reserve Requirement***" means, at any time, for any Eurodollar Rate Advances, the maximum rate, expressed as a decimal, at which reserves (including any basic marginal, special, supplemental, emergency or other reserves) are required to be maintained with respect thereto against "*Eurocurrency liabilities*" (as such term is defined in Regulation D) under regulations issued from time to time by the Board of Governors or other applicable banking regulator. Without limiting the effect of the foregoing, the Applicable Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (a) any category of liabilities which includes deposits by reference to which the applicable Adjusted Eurodollar Rate or any other interest rate of an Advance is to be determined, or (b) any category of extensions of credit or other assets which include Eurodollar Rate Advances. Eurodollar Rate Advances shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credit for proration, exceptions or offsets that may be available from time to time to the applicable Lender. The rate of interest on Eurodollar Rate Advances shall be adjusted automatically on and as of the effective date of any change in the Applicable Reserve Requirement.

"***Appropriate Lender***" means, at any time and without duplication, with respect to (a) the Term B Facility or the Revolving Facility, a Lender that has a Commitment or outstanding Advances with respect to such Facility at such time, and (b) the Revolving Facility, the Issuing Banks at such time.

"***Approved Fund***" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"***Asset Sale***" means a sale, lease (as lessor), sale and leaseback, assignment, conveyance, exclusive license (as licensor), transfer or other disposition to, or any exchange of Property with, any Person, in one transaction or a series of transactions, of all or any part of any of the Properties of any of the Loan Parties, whether now owned or hereafter acquired, leased or licensed, other than (a) sales, leases, transfers, assignments

or other dispositions or exchanges of Properties for aggregate consideration of less than $5,000,000 in any Fiscal Year (but no more than $10,000,000 in the aggregate during the term of this Agreement); (b) issuance of Capital Stock in any Loan Party to another Loan Party or, for avoidance of doubt, by Holdings, or (c) any sale, lease, transfer or other disposition or exchange of Properties pursuant to sub-clause (i), (ii), (iii), (iv), (v), (vi), (vii), (ix), (x), (xiii) or (xiv) of Section 7.02(e).

"***Asset Sale Proceeds***" means, with respect to any Asset Sale, the Net Cash Proceeds received by any of the Loan Parties in connection with such Asset Sale.

"***Assignment and Assumption***" means an assignment and assumption entered into by a Lender Party, on the one hand, and an Eligible Assignee (with the consent of any Person whose consent is required by Section 11.06), on the other hand, and accepted by the Administrative Agent, in accordance with Section 11.06 and in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

"***Auction***" has the meaning specified in Section 11.06(g)(i).

"***Augmenting Extending Lender***" has the meaning specified in Section 4.10.

"***Available Amount***" means, with respect to any Letter of Credit or any other letter of credit, at any time, the maximum amount (whether or not such maximum amount is then in effect under such Letter of Credit or other letter of credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit or other letter of credit) available to be drawn under such Letter of Credit or other letter of credit at such time (assuming compliance at such time with all conditions to drawing).

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

"***Bankruptcy Court***" means the United States Bankruptcy Court for the District of Delaware.

"***Base Case Projections***" has the meaning specified in Section 5.01(a)(viii)(C).

"***Base Rate***" means, for any day, a rate *per annum* equal to the greatest of (a) the Prime Rate in effect on such day; (b) the Federal Funds Effective Rate in effect on such day *plus* ½ of 1%; and (c) 1% *plus* the Adjusted Eurodollar Rate (without giving effect to any rounding) for a one month Interest Period in effect on such day (or if such day is not a Business Day, the immediately preceding Business Day). Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate shall be effective on the effective day of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate, respectively. Notwithstanding the foregoing, at no time shall the "Base Rate" in respect of the Term B Advances be less than 2.00% *per annum.*

"***Base Rate Advance***" means an Advance that bears interest as provided in Section 2.05(a)(i).

"***Black Lung Act***" means the Black Lung Benefits Act of 1972, 30 U.S.C. §§ 901, et seq., the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801, et seq., the Black Lung Benefits Reform Act of 1977, Pub. L. No. 95-239, 92 Stat. 95 (1978), and the Black Lung Benefits Amendments of 1981, Pub. L. No. 97-119, Title 11, 95 Stat. 1643, in each case as amended.

"***Black Lung Liabilities***" means any liability or benefit obligations related to black lung claims and benefits under the Black Lung Act, and liabilities and benefits related to pneumoconiosis, silicosis, exposure to isocyanates or other lung disease arising under any federal or state law, including any Mining Law.

"***Board of Governors***" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"***Borrower***" has the meaning specified in the preamble hereto.

"***Borrower-Related Party***" means Holdings, the Borrower, each Steering Group Member and any Affiliate thereof (other than any Affiliate of a Steering Group Member that is an Affiliated Debt Fund).

"***Borrowing***" means, individually or collectively, as the context may require, a Term B Borrowing or a Revolving Borrowing.

"***Budget***" has the meaning specified in Section 7.03(e).

"***Business***" means the business conducted by Holdings and its Subsidiaries on the Closing Date and any business activities reasonably related ancillary thereto and reasonable extensions thereof including, but not limited to: (a) the 769 MW coal-fired generating facility located near Morgantown, West Virginia commonly known as Longview and all assets, properties, and appurtenances relating thereto (including inventory, machinery, equipment, vehicles, furniture and other personal property owned or leased by the Borrower or its Affiliates) attached thereto or used in connection or associated therewith (including all files, documents, instruments, books and records owned by or in possession of the Borrower or any of its Affiliates on the Closing Date relating primarily to the business, operation, maintenance and condition of such facility), including, for the avoidance of doubt, all of the Mines, (b) operations of Mepco and its Subsidiaries relating to the Mines and (c) operations of DCWTS Holdings, LLC and its Subsidiaries.

"***Business Day***" means (a) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close and (b) with respect to all notices, determinations, fundings and payments in connection with the Adjusted Eurodollar Rate or any Eurodollar Rate Advances, the term "***Business Day***" means any day which is a Business Day described in clause (a) and which is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"***Business Interruption Insurance Proceeds***" means any and all proceeds of any insurance, indemnity, warranty or guaranty payable from time to time to any of the Loan Parties with respect to the partial or complete interruption of the operation of the business of such Loan Party.

"***Capex Base Allowance***" means, for any Fiscal Year beginning with the Fiscal Year starting January 1, 2016, $10,000,000 (such amount, the "***Capex Stated Allowance***") minus any amount that was, during the prior Fiscal Year, a Capex Pullback Amount.

"***Capex Carryover Amount***" means, for any Fiscal Year, the amount by which the Capex Limit for any preceding Fiscal Year exceeds Capital Expenditures made in such immediately preceding Fiscal Year.

"***Capex Limit***" means, for any Fiscal Year, the Capex Base Allowance for such Fiscal Year plus any Capex Carryover Amount for such Fiscal Year plus any Capex Pullback Amount for such Fiscal Year.

"***Capex Pullback Amount***" means, for any Fiscal Year, the amount (not to exceed $10,000,000) of the Capex Stated Allowance for the immediately succeeding Fiscal Year which the Borrowers allocate to Capital Expenditures in the current Fiscal Year.

"***Capex Stated Allowance***" has the meaning specified in the definition of "Capex Base Allowance".

"***Capital Expenditures***" means, for any period, the aggregate of all expenditures of the Loan Parties during such period determined on a Consolidated basis and without duplication that, in accordance with GAAP, are or should be included in "***property, plant and equipment***" or similar items reflected in the Consolidated balance sheet of the Loan Parties or in "***purchase of property and equipment***" or similar items reflected in the Consolidated statement of cash flows of the Loan Parties, but excluding to the extent they would otherwise be included:

(i) expenditures permitted hereunder that would otherwise constitute Capital Expenditures made to the extent financed with (a) Insurance Proceeds or other Cash paid to the Loan Parties on account of the Casualty Event, in the case of the Longview Parties, in respect of the Property being replaced, restored or repaired and, in the case of the Mepco and its Subsidiaries, in respect of Property that is used or useful in the Business, (b) Eminent Domain Proceeds or other Cash paid to the Loan Parties on account of an Event of Eminent Domain or (c) Contract Termination Proceeds or other Cash paid to the Loan Parties on account of an Contract Termination Event, in the case of each of clauses (a), (b) and (c), in accordance with the terms of the Loan Documents;

(ii) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent that the gross amount of such purchase price is less than any credit granted by the seller of such equipment for the equipment being traded in at such time;

(iii) the purchase of any Property or other expenditures to the extent financed with Asset Sale Proceeds in accordance with the terms of the Loan Documents;

(iv) payments under Capitalized Leases to the extent such Capitalized Leases are permitted under the terms of the Loan Documents;

(v) expenditures related to Major Maintenance Expenses or 2015 Outage Expenses;

(vi) expenditures to the extent a Loan Party (A) has received or (B) reasonably expects to receive (and actually receives within 45 days following such expenditures), in either case, reimbursement in cash from a Person that is not an Affiliate of a Loan Party and for which such Loan Party has not provided and is not required to provide or incur, directly or indirectly, any consideration or obligation to such Person or any other Person; and

(vii) the purchase of Property to the extent financed (directly or indirectly) with the proceeds of Cash equity contributions received by any Loan Party (directly or indirectly) from Holdings (or any other owner of the Business that is not an Affiliate of Holdings) prior to the consummation of such purchase, which Cash equity contributions have been contributed by Holdings, directly or indirectly, specifically for such purpose.

"***Capital Stock***" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"***Capitalized Leases***" means, as applied to any Person, any lease of any Property by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"***Cash***" means money, currency or a credit balance in any demand account or Deposit Account.

"***Cash Collateralize***" means, to deposit in a Controlled Account or to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the Lender Parties, as collateral for L/C Exposure or obligations of Lenders to fund participations in respect of L/C Exposure, cash or Deposit Account balances or, if the Administrative Agent and each applicable Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and each applicable Issuing Bank. "***Cash Collateral***" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"***Cash Collateralized LC Issuing Bank***" means the issuer(s) of letters of credit under any Cash Collateralized LC Facility Agreement.

"***Cash Collateralized Revolving LCs***" means the letters of credit issued pursuant to any Cash Collateralized LC Facility Agreement.

"***Cash Collateralized LC Facility Agreement***" means (i) that certain Letter of Credit and Reimbursement Agreement, dated as of the Closing Date, by and between the Borrower and Morgan Stanley Bank, N.A., as issuing bank and (ii) any other cash collateralized letter of credit facility agreement entered into from time to time by the Borrower providing for the issuance of letters of credit for the account of the Loan Parties, which shall be secured by the cash collateral accounts funded solely with funds transferred from the Cash Collateral Return Account in accordance with the Depositary Agreement and shall otherwise be on terms no less favorable to Holdings and its Subsidiaries than this Agreement and otherwise reasonably acceptable to the Administrative Agent.

"***Cash Collateral Return Account***" is defined in the Depositary Agreement.

"***Cash Equivalents***" means any of the following:

(i) readily marketable direct obligations of the government of the United States or any agency or instrumentality thereof, or obligations unconditionally guaranteed by the full faith and credit of the government of the United States, in each case maturing within one year from the date of acquisition thereof;

(ii) securities issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof having maturities of not more than one year from the date of acquisition thereof and, at the time of acquisition, having a rating of AA- or higher from S&P or Aa3 or higher from Moody's (or, at any time that neither S&P nor Moody's rates such obligations, an equivalent rating from another nationally recognized rating service);

(iii) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, a rating of at least A-1 or P-1 from either S&P or Moody's (or, at any time that neither S&P nor Moody's rates such obligations, an equivalent rating from another nationally recognized rating service);

(iv) investments in certificates of deposit, banker's acceptances and time deposits maturing within 270 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, the Administrative Agent or any of its Affiliates or any domestic office of any commercial bank organized under the laws of the United States of America, any State thereof, any country that is a member of the OECD or any political subdivision thereof, that has a combined capital and surplus and undivided profits of not less than $500,000,000;

(v) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (i) above and entered into with a financial institution satisfying the criteria of clause (iv) above;

(vi) investments in "***money market funds***" within the meaning of Rule 2a-7 of the Investment Company Act of 1940, as amended, substantially all of whose assets are invested in investments of the type described in clauses (i) through (v) above; and

(vii) Cash.

"***Casualty Event***" means a casualty event that causes all or a portion of the Property of any of the Loan Parties to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, other than (a) ordinary use and wear and tear, (b) any Event of Eminent Domain or (c) any casualty event in respect of which the Borrower reasonably expects that the Loan Parties will receive Insurance Proceeds of less than $5,000,000.

"***Change in Law***" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

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

(i) any Person other than a Steering Group Member or any of its Affiliates, taken as a whole, shall own beneficially (within the meaning of Rule 13d- 5 of the Exchange Act), directly or indirectly, at least 50% on a fully diluted basis of the aggregate ordinary voting interests in Holdings;

(ii) except to the extent permitted by Section 7.02(f), at any time, Holdings shall fail to beneficially (within the meaning of Rule 13d- 5 of the Exchange Act) and directly or indirectly own 100% of the aggregate voting and economic interests in each of the Borrower, Mepco Holdings, LLC, DCWTS Holdings, LLC or GenPower Services, LLC;

(iii) at any time, the Loan Parties (other than Holdings, Mepco and Mepco's Subsidiaries) shall fail to beneficially (within the meaning of Rule 13d- 5 of

the Exchange Act) and directly own 100% of the aggregate voting and economic interests in the Project;

provided that no Change of Control shall be deemed to have occurred in any circumstance set forth in clause (i) above if (x) each of S&P and Moody's shall have provided a Ratings Reaffirmation after giving effect to such transaction that otherwise would give rise to a Change of Control and (y) the Person maintaining such beneficial interests is a Qualified Operator.

"***Chapter 11 Cases***" means the Borrower's and certain of its Affiliates' jointly administered cases under Chapter 11 of the Bankruptcy Code under the caption: *In re Longview Power, LLC, et.al.,* Case No. 13-12211 (BLS).

"***Class***", when used in reference to any Advance or Borrowing, refers to whether such Advance, or the Advances constituting such Borrowing, are Term B Advances, Working Capital Advances or L/C Advances; when used in reference to any Commitment, refers to whether such Commitment is a Term B Commitment, Revolving Commitment or L/C Commitment; and when used in reference to any Letter of Credit, refers to whether such Letter of Credit is a Working Capital Letter of Credit or DSRA Letter of Credit.

"***Closing Date***" means the date on which the conditions precedent set forth in Section 5.01 have been satisfied or waived in accordance with Section 11.05.

"***Closing Date Distribution***" has the meaning specified in the recitals hereto.

"***Coal Supply Agreement***" means that certain Amended and Restated Coal Supply Agreement, dated as of March 22, 2009, by and between Mepco and the Borrower.

"***Collateral***" means all Property (including Capital Stock) of the Loan Parties, now owned or hereafter acquired, other than the Excluded Collateral, which is intended to be subject to the security interests or Liens granted pursuant to any of the Collateral Documents.

"***Collateral Agent***" means Deutsche Bank Trust Company Americas, in its capacity as collateral agent, together with any successor agent appointed pursuant to the Depositary Agreement.

"***Collateral Documents***" means the Pledge and Security Agreement, the Depositary Agreement (and any agreement entered into, or required to be delivered, by any Loan Party pursuant to the terms of the Pledge and Security Agreement) in order to perfect the Lien created on any Property pursuant thereto (including any Uniform Commercial Code financing statements), the Mortgages and each other agreement that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties to secure the Obligations.

"***Commitment***" means, individually or collectively, as the context may require, a Term B Commitment, a Revolving Commitment, or an L/C Commitment.

"***Commitment Letter***" means that certain Commitment Letter, dated as of March 9, 2015, among the Borrower, Holdings and the Joint Lead Arrangers.

"***Commodity Exchange Act***" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor thereto.

"***Commodity Hedge and Power Sale Agreement***" means any agreement (including each confirmation entered into pursuant to any ISDA master agreement) providing for any swap, cap, collar, put, call, floor, future, option, spot, forward, power purchase and sale agreement (including, but not limited to, option and heat rate options), power or fuel hedge (financial or physical), fuel purchase and sale agreement, fuel supply agreement, energy management agreement, tolling agreement, capacity purchase or sale agreement, emissions credit purchase or sale agreement, power transmission agreement, fuel transportation agreement, fuel storage agreement, netting agreement or similar agreement, in each case entered into in respect of any commodity, including any energy management agreements having any such characteristics, other than, for the avoidance of doubt, any energy management agreement that solely establishes an agency function for the party or parties thereto, and any agreement providing for credit support for any of the foregoing, in all cases whether settled financially or physically.

"***Commodity Hedge Counterparty***" means any Person (or whose obligations under the applicable Permitted Secured Commodity Hedge and Power Sale Agreement are guaranteed by an entity) (a) that is, as of the date of the applicable Permitted Secured Commodity Hedge and Power Sale Agreement, (i) a commercial bank, insurance company or other similar financial institution or any Affiliate thereof, (ii) a public utility or a reputable exchange or (iii) in the business of buying, selling, marketing, purchasing, transporting, storing or distributing electric energy, capacity, ancillary services, emissions credits, fuel (or other commodities related to the generation or sale of power from the Project), gypsum or coal ash and (b) solely to the extent that Liens under the Collateral Documents are intended to benefit such Person, that has (or whose obligations under the applicable Permitted Secured Commodity Hedge and Power Sale Agreement are guaranteed by an entity that has), at the time the applicable Permitted Secured Commodity Hedge and Power Sale Agreement is entered into, a Required Rating.

"***Compliance Certificate***" means a Compliance Certificate substantially in the form of Exhibit G.

"***Connection Income Taxes***" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"***Consolidated***" refers to the consolidation of accounts in accordance with GAAP.

"***Contract Termination Event***" means the termination of any contract to which a Loan Party is party which as a condition to, or result of, such termination requires the counterparty to make an involuntary contractual buyout payment to such Loan Party, other than any terminations in respect of which the Borrower reasonably expects that the

Loan Parties will receive Contract Termination Proceeds of $5,000,000 or less in the aggregate for all such terminations during the term of this Agreement.

"***Contract Termination Proceeds***" means, with respect to any Contract Termination Event, the Net Cash Proceeds received by any of the Loan Parties in connection with such Contract Termination Event.

"***Contractual Obligations***" means, as applied to any Person, any provision of any Capital Stock issued by such Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which such Person is a party or by which it or any of its Properties is bound.

"***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. "Controlling" and "Controlled" have meanings correlative thereto.

*"**Control Agreement**"* means, with respect to an account of any Loan Party, an agreement or other arrangement (in each case, in form and substance reasonably satisfactory to the Administrative Agent) which provides for Collateral Agent to have "control" (as defined in Section 8-106 of the UCC, as such term relates to investment property (other than certificated securities or commodity contracts), or as used in Section 9-106 of the UCC, as such term relates to commodity contracts, or as used in Section 9-104(a) of the UCC, as such term relates to deposit accounts), in each case, as amended, restated, supplemented and/or otherwise modified from time to time.

"***Controlled Account***" means each Deposit Account and each securities account that is subject to a Control Agreement in form and substance satisfactory to the Administrative Agent and each applicable Issuing Bank.

"***Conversion***," "***Convert***" and "***Converted***" each refer to a conversion of Advances of one Type into Advances of the other Type pursuant to Section 2.06 or 4.04.

"***Conversion/Continuation Notice***" means a Conversion/Continuation Notice substantially in the form of Exhibit H.

"***Credit Date***" means the date of a Credit Extension.

"***Credit Extension***" means the making of any Advance or the issuance of a Letter of Credit.

"***Cure Notice***" has the meaning specified in Section 7.04(b)(ii).

"***Debt***" means, as applied to any Person and without duplication:

(i) all debt for borrowed money;

(ii) that portion of obligations with respect to Capitalized Leases that is properly classified as a liability on a balance sheet in conformity with GAAP;

(iii) all obligations of such Person evidenced by notes, bonds, debentures, drafts or other similar instruments representing extensions of credit whether or not representing obligations for borrowed money;

(iv) any obligation owed for all or any part of the deferred purchase price of property or services;

(v) all indebtedness secured by any Lien on any property or asset owned or held by such Person regardless of whether the indebtedness secured thereby shall have been assumed by such Person or is nonrecourse to the credit of that Person;

(vi) the face amount of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings;

(vii) the direct or indirect guaranty, endorsement (otherwise than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another;

(viii) any liability of such Person for an obligation of another through any agreement (contingent or otherwise) (a) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (b) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under sub-clause (a) or (b) of this clause (viii), the primary purpose or intent of which is to provide assurance to an obligee that the obligation of the obligor thereof will be paid or discharged, or any agreement relating thereto will be complied with, or the holders thereof will be protected (in whole or in part) against loss in respect thereof; and

(ix) all obligations of such Person in respect of any exchange traded or over the counter derivative transaction, including any Interest Rate Hedge or Commodity Hedge and Power Sale Agreement, whether entered into for hedging or speculative purposes;

provided that in no event shall (A) deferred compensation arrangements, (B) earn-out, non-compete or consulting obligations, (C) deemed Debt pursuant to GAAP, (D) working capital or other adjustments to purchase price or indemnification obligations under purchase agreements or (E) any deferred purchase price for goods or services that is less than six months from the date of incurrence of the obligation in respect thereof, in each case, constitute Debt of a Person for the purposes of Section 7.02(b); *provided further* that in no event shall Debt in respect of Interest Rate Hedges or Commodity Hedge and

Power Sale Agreements, in each case, constitute Debt of a Person for the purposes of Section 8.01(f).

"***Debt Proceeds***" means, with respect to the incurrence or issuance of any Debt or any Permitted Refinancing Facility by any of the Loan Parties (other than Debt (except in the case of a Permitted Refinancing Facility) permitted to be incurred or issued pursuant to Section 7.02(b)), the Net Cash Proceeds received by any of the Loan Parties in connection with such incurrence or issuance.

"***Debt Service***" means, for any period, the sum of (x) Interest Expense, all fronting fees, commitment fees and letter of credit participation fees and similar fees paid or payable in cash by the Loan Parties in such period (including under Section 3.06(a) and Section 4.03(a) of this Agreement) under the Loan Documents and under any Permitted Refinancing Facility secured by a Permitted Lien on the Collateral under the Collateral Documents, and all Ordinary Course Settlement Payments under Interest Rate Hedges and (y) all scheduled principal amounts paid or payable in such period pursuant to Section 2.03(a) or any Permitted Refinancing Facility secured by a Permitted Lien on the Collateral under the Collateral Documents.

"***Debt Service Coverage Ratio***" means, for any Measurement Period, the ratio of (a) Operating Cash Flow Available for Debt Service for such Measurement Period to (b) Debt Service for such Measurement Period.

"***Debt Service Reserve Account***" has the meaning specified in the Depositary Agreement.

"***Debt Service Reserve Requirement***" means on any date of determination, an amount equal to 100% of the sum of the reasonably anticipated aggregate scheduled principal, interest and scheduled fees (including commitment fees, but excluding (a) any upfront or agency fees and (b) any scheduled principal payment on the Revolving Facility Maturity Date or Term B Facility Maturity Date, as applicable) payable during the following six (6) month period occurring after such date of determination in respect of the Facilities, net of (or plus) payments under Hedge Agreements that are reasonably expected to be made or received during such six month period.

"***Debtor Relief Laws***" means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"***Default***" means any Event of Default or a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"***Defaulting Lender***" means, subject to Section 4.11(b), any Lender that (a) has failed to (i) fund all or any portion of its Advance within two Business Days of the date such Advances were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such

Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank, or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund an Advance hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 4.11) upon delivery of written notice of such determination to the Borrower, each Issuing Bank and each Lender.

"***Deposit Account***" means a demand, time, savings, checking, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

"***Depositary***" means Deutsche Bank Trust Company Americas, in its capacity as depositary, together with any successor depositary appointed pursuant to the Depositary Agreement.

"***Depositary Account***" has the meaning specified in the Depositary Agreement.

"***Depositary Agreement***" means a depositary agreement in substantially the form of Exhibit L, among the Borrower, each Guarantor party thereto, the Administrative Agent, the Collateral Agent, and the Depositary.

"***Designated Jurisdiction***" means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"***DIP Credit Agreement***" means that certain Senior Secured Debtor-in-Possession Credit Agreement, dated as of November 27, 2013, by and among Holdings, the Borrower, the Bank of Nova Scotia, as administrative agent, the debtors party thereto, and the various lenders party thereto (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time prior to the Closing Date).

"***Disposition***" means any sale, assignment, transfer, conveyance or other disposition.

"***Disqualified Institution***" means the Persons listed on Schedule 1.01 which Schedule 1.01 (i) shall be available for inspection upon request and (ii) may be modified from time to time to add any Person identified by the Borrower after the Closing Date as a Person engaged in similar business operations as the Borrower.

"***Dollars***" and the sign "***$***" mean the lawful currency of the United States of America.

"***Domestic Lending Office***" means, with respect to any Lender Party, the office of such Lender Party specified as its "*Domestic Lending Office*" opposite its name on Schedule I or in the Assignment and Assumption pursuant to which it became a Lender Party, as the case may be, or such other office of such Lender Party as such Lender Party may from time to time specify to the Borrower and the Administrative Agent.

"***Drawing Payment***" means a payment by an Issuing Bank of all or any part of the Available Amount in conjunction with a drawing on a Letter of Credit by the beneficiary thereof.

"***DSRA Letter of Credit***" shall have the meaning ascribed thereto in Section 3.01(a)(ii).

"***Dunkard Creek Lender Claims***" shall have the meaning ascribed thereto in the Plan of Reorganization.

"***Early Termination Event***" means, with respect to any Interest Rate Hedge or any Commodity Hedge and Power Sale Agreement, the occurrence of any termination event or any event of default under and as defined in any Interest Rate Hedge or Commodity Hedge and Power Sale Agreement which results in the termination of such Interest Rate Hedge or Commodity Hedge and Power Sale Agreement, as applicable.

"***Eligible Assignee***" means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)).

"***Eminent Domain Proceeds***" means, with respect to any Event of Eminent Domain, the Net Cash Proceeds received by any of the Loan Parties in connection with such Event of Eminent Domain.

"***Emission Allowance***" means all environmental credits, offsets and allowances issued under the federal Clean Air Act (42 U.S.C. § 7401 *et seq.*), any applicable emission budget programs, or any other state, regional or federal emission trading program, and specifically includes NOx and SO2 allowances under the Federal Acid Rain program (40 C.F.R. 72), the CAIR NOx Trading Program (40 C.F.R. 96, subpart AA), the CAIR SO2 Trading Program (40 C.F.R. 96, subpart AAA), the Cross-State Air Pollution Rule Phase I and/or Phase II Programs, and any approved rules or regulations implementing these provisions adopted by the State of West Virginia, the State of Pennsylvania or their departments and instrumentalities pursuant to any applicable State Implementation Plan.

"***Employee Benefit Plan***" means any "*employee benefit plan*" as defined in Section 3(3) of ERISA (a) which is or was adopted, sponsored, maintained or contributed to by, or required to be contributed by any of the Loan Parties or any of their respective ERISA Affiliates or (b) with respect to or in connection with any of the Loan Parties could have any actual or contingent liability by reason of any Person having been an ERISA Affiliate at any applicable time within the past six years.

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

"***Environmental Action***" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, consent order, consent decree, abatement order or other order or directive (conditional or otherwise) by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with Environmental Law or Mining Law or any actual or alleged violation of Environmental Law or Mining Law; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; (c) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources, or the Environment; (d) in connection with the Reclamation, or alleged need for Reclamation, of the Mines; or (e) in connection with any Black Lung Liability.

"***Environmental Law***" means any and all current or future, foreign, federal or state (or any subdivision of either of them) statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other legally enforceable requirements of Governmental Authorities relating to (i) environmental matters or the protection of the environment (including surface water, groundwater, soils or subsurface strata, or indoor

or outdoor air), including those legal requirements relating to any Hazardous Materials Activity; (ii) occupational safety and health (to the extent related to exposure to Hazardous Materials); or (iii) the protection of human, plant or animal health or welfare, in any manner applicable to any of the Loan Parties or any of their respective Properties.

"***Environmental or Mining Permit***" shall mean any Governmental Authorization required under any Environmental Law or Mining Law for the development, construction, testing, operation, maintenance, repair, ownership, or use of the Business and the Mines, including, but not limited to, any such Governmental Authorization required for coal mining and/or Reclamation.

"***Equity Cure***" has the meaning specified in Section 7.04(b)(i).

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor thereto.

"***ERISA Affiliate***" means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (b) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (c) solely for the purpose of the funding requirements of Section 412 of the Internal Revenue Code or Section 302 of ERISA, any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (a) above or any trade or business described in clause (b) above is a member.

"***ERISA Event***" means (a) a "*reportable event*" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by regulation as in effect on the date hereof); (b) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code or Section 302 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 430(j) of the Internal Revenue Code or Section 303 of ERISA with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (c) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (d) the withdrawal by any of the Loan Parties or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors who are not treated as a single employer under Title IV of ERISA or the termination of any such Pension Plan resulting in liability to any of the Loan Parties or any of their respective ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (e) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which could reasonably be expected to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (f) the imposition of liability on any of the

Loan Parties or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) the withdrawal of any of the Loan Parties or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 or 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by any of the Loan Parties or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in critical status pursuant to Section 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (h) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan (other than a Multiemployer Plan) or the assets thereof, or against any of the Loan Parties or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (i) the imposition of a Lien pursuant to Section 430(k) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan; (j) the occurrence of a non-exempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could reasonably be expected to result in material liability to any of the Loan Parties or any of their respective ERISA Affiliates; (k) a Pension Plan is, or is expected to be, in "at risk" status within the meaning of Section 430(i)(4) of the Code or Section 303(i)(4) of ERISA; or (l) a Multiemployer Plan is in "endangered status" (under Section 432(b)(1) of the Code or Section 305(b)(1) of ERISA) or "critical status" (under Section 432(b)(2) of the Code or Section 305(b)(2) of ERISA).

"***Eurodollar Lending Office***" means, with respect to any Lender Party, the office of such Lender Party specified as its "*Eurodollar Lending Office*" opposite its name on Schedule I or in the Assignment and Assumption pursuant to which it became a Lender Party (or, if no such office is specified, its Domestic Lending Office), or such other office of such Lender Party as such Lender Party may from time to time specify to the Borrower and the Administrative Agent.

"***Eurodollar Rate Advance***" means an Advance that bears interest as provided in Section 2.05(a)(ii).

"***Event of Abandonment***" means the operation of the Project shall have been abandoned for a period of at least 45 consecutive days (it being acknowledged that a Casualty Event, Event of Eminent Domain, a force majeure event, an outage, or any other event which is not caused by a Loan Party shall be deemed to not be an "*Event of Abandonment*").

"***Event of Eminent Domain***" means any action, series of actions, omissions or series of omissions by any Governmental Authority (a) by which such Governmental Authority appropriates, confiscates, condemns, expropriates, nationalizes, seizes or otherwise takes all or a material portion of the Property of any of the Loan Parties (including any Capital Stock of any of the Loan Parties) or (b) by which such Governmental Authority assumes custody or control of the Property (other than immaterial portions of such Property) or business operations of any of the Loan Parties (or any Capital Stock of any of the Loan Parties) other than any such action, series of actions, omissions or series of omissions in respect of which the Borrower reasonably

expects that the Loan Parties will receive Eminent Domain Proceeds of $5,000,000 or less in the aggregate for all such actions, series of actions, omissions or series of omissions during the term of this Agreement.

"***Events of Default***" has the meaning specified in Section 8.01.

"***EWG***" means an exempt wholesale generator within the meaning of Section 1262(6) of PUHCA, and FERC's implementing regulations thereof at 18 C.F.R. Part 366.

"***Excess Cash Flow***" means, as of any date of determination, the amount of funds available in the Longview Revenue Account as of such date after giving effect to the withdrawals, transfers and payments specified in sub-clauses (i) through (viii) of Section 3.1(c) of the Depositary Agreement on or prior to such date.

"***Excess Cash Flow Percentage***" means, with respect to any prepayment required under Section 2.04(b)(i), 100%.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"***Excluded Collateral***" has the meaning specified in the Pledge and Security Agreement.

"***Excluded Swap Obligation***" means, with respect to any Guarantor at any time, any Swap Obligation, if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is illegal or unlawful at such time under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time such guarantee or grant of a security interest would have otherwise become effective with respect to such related Swap Obligation.

"***Excluded Taxes***" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in an Advance or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Advance or Commitment (other than pursuant to an assignment request by the Borrower under Section 4.08(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 4.06, amounts with

respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 4.06(g) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"***Extending Lender***" has the meaning specified in Section 4.10.

"***Facility***" means, individually or collectively, as the context may require, the Term B Facility and the Revolving Facility.

"***FATCA***" means Sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code, and any applicable intergovernmental agreement with respect thereto and applicable official implementing guidance thereunder.

"***Federal Funds Effective Rate***" means for any day, the rate *per annum* (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that, (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to the Administrative Agent (in the case of any Advances), in its capacity as a Lender, on such day on such transactions as determined by the Administrative Agent.

"***Federal Mine Safety Act***" means the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §§ 931, et. seq., as amended.

"***Fee Letter***" means collectively, (a) that certain fee letter, dated March 16, 2015, among the Borrower, Holdings, the Joint Lead Arrangers and the other persons party thereto, (b) that certain agency fee letter, dated as of the date hereof, between the Borrower, Holdings and the Administrative Agent and (c) that certain agency fee letter, dated as of the date hereof, between the Borrower, Holdings, the Depositary and the Collateral Agent.

"***FERC***" means the Federal Energy Regulatory Commission, and any successor.

"***Final Order***" has the meaning specified in the Plan of Reorganization.

"***Financial Covenant***" has the meaning specified in Section 7.04(b)(i).

"***Financial Officer***" in respect of any Person means the chief executive officer, president, chief financial officer, chief accounting officer, any vice-president, controller, treasurer or any assistant treasurer of such Person.

"***Financial Officer Certification***" means, with respect to the financial statements for which such certification is required, the certification of a Financial Officer of the Borrower that such financial statements fairly present, in all material respects, the financial condition of the Loan Parties as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments and, in the case of unaudited financial statements, the absence of footnotes.

"***Fiscal Quarter***" means a fiscal quarter of any Fiscal Year.

"***Fiscal Year***" means a fiscal year of the Loan Parties ending on December 31 of each calendar year.

"***Flood Hazard Property***" means any Real Estate Asset subject to a Mortgage and located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

"***Flood Certificate***" means a "Standard Flood Hazard Determination Form" of the Federal Emergency Management Agency and any successor Governmental Authority performing a similar function.

"***Flood Program***" means the National Flood Insurance Program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004, in each case as amended from time to time, and any successor statutes.

"***Flood Zone***" means areas having special flood hazards as described in the National Flood Insurance Act of 1968, as amended from time to time, and any successor statute.

"***Foreign Lender***" means a Lender that is not a U.S. Person.

"***Foster Wheeler Settlement Agreement***" has the meaning specified in the Plan of Reorganization.

"***FPA***" means the Federal Power Act, as amended to the date hereof and from time to time hereafter, and any successor statute, and all implementing regulations of FERC thereunder.

"***Fronting Exposure***" means, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender's Applicable Percentage of the outstanding L/C Exposure with respect to Letters of Credit issued by such Issuing Bank other than L/C Exposure as to which such Defaulting Lender's participation obligation

has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"***Fund***" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"***Funding Notice***" has the meaning specified in Section 2.02(a).

"***GAAP***" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, as in effect from time to time.

"***Governmental Authority***" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof, or any entity certified by FERC as the electric reliability organization for the United States or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, including any independent system operator or regional transmission organization, in each case whether associated with a state of the United States, the United States or, to the extent applicable and legally binding, a foreign entity or government (including any supra-national bodies such as the European Union or the European Central Bank).

"***Governmental Authorization***" means any authorization, approval, consent, franchise, license, covenant, order, ruling, permit, certification, exemption, registration, notice, declaration or similar right, undertaking or other action of, to or by, or any filing, qualification or registration with, any Governmental Authority.

"***Ground Lease***" means that certain Lease dated as of February 26, 2007, by and between Ground Lessor, as lessor, and Borrower, lessee, as amended, restated, amended and restated, supplemented, or otherwise modified from time to time.

*"**Ground Lessor***" means the Monongalia County Development Authority.

"***Ground Lessor Estoppel***" means an estoppel certificate and agreement duly executed and delivered by Ground Lessor in favor of the Collateral Agent in form and substance reasonably acceptable to the Administrative Agent, as amended, restated, amended and restated, supplemented, or otherwise modified from time to time.

"***Group***" has the meaning specified in Section 6.01(aa).

"***Guaranteed Obligations***" has the meaning specified in Section 10.01(a).

"***Guarantors***" means Holdings, Mepco and each other Subsidiary of Holdings (other than AMD Reclamation, Inc.) that shall be required to execute and deliver a guaranty or guaranty supplement pursuant to Section 7.01(p).

"***Guaranty***" means the guaranty of the Guarantors set forth in Article X.

"***Hazardous Materials***" means (a) any petrochemical or petroleum products, oil, waste oil, asbestos in any form that is or could become friable, urea formaldehyde foam insulations, toxic mold, lead-based paint and polychlorinated biphenyls; (b) any products, mixtures, compounds, materials, wastes or substances, air emissions, toxic substances, wastewater discharges, or chemical that may give rise to liability pursuant to, or is listed or regulated under, or the human exposure to which or the Release of which is controlled or limited by Environmental Laws based on its dangerous or deleterious properties; and (c) any materials, wastes or substances defined in Environmental Laws as "*hazardous*," "*toxic*," "*radioactive*," "*pollutant*," or "*contaminant*" or words of similar meaning or regulatory effect.

"***Hazardous Materials Activity***" means any activity, event or occurrence involving any Hazardous Materials, including the generation, use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"***Hedge Agreement***" means any Interest Rate Hedge entered into by a Loan Party with a Hedge Bank to the extent permitted under Section 7.02(b)(vi) and that is designated as such by the Borrower in written notice delivered to the Administrative Agent.

"***Hedge Bank***" means any Person that is either (a) the Administrative Agent, a Lender, Joint Lead Arranger or an Affiliate thereof at the time of entering into an Interest Rate Hedge or (b) a commercial bank, insurance company or other similar financial institution, or any Affiliate thereof, whose long-term senior unsecured debt is rated (as of the date such Person enters into the applicable Interest Rate Hedge) at least BBB+ by S&P and Baa1 by Moody's and which is engaged in the business of entering into Interest Rate Hedges.

"***Highest Lawful Rate***" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender Party which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

"***Holdings***" has the meaning specified in the preamble hereto.

"***Incremental Facilities***" has the meaning specified in Section 2.08(a).

"***Incremental Revolving Increase***" has the meaning specified in Section 2.08(a).

"***Incremental Term Facility***" has the meaning specified in Section 2.08(a).

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

"***Indemnitee***" has the meaning specified in Section 11.02(b).

"***Initial Operating Budget***" has the meaning specified in Section 5.01(a)(viii)(B).

"***Insurance Consultant***" means Moore-McNeil, LLC.

"***Insurance Premium Financers***" means Persons who are non-Affiliates of the Loan Parties that advance insurance premiums for the Loan Parties pursuant to Insurance Premium Financing Arrangements.

"***Insurance Premium Financing Arrangements***" means, collectively, such agreements with Insurance Premium Financers pursuant to which such Insurance Premium Financers advance insurance premiums for the Loan Parties. Such Insurance Premium Financing Arrangements (i) shall provide for the benefit of such Insurance Premium Financers a security interest in no property of the Loan Parties or any of their Subsidiaries other than gross unearned premiums for the insurance policies and related rights and proceeds therefrom, (ii) shall not purport to prohibit any portion of the Liens created in favor of Collateral Agent, and (iii) shall not contain any provision or contemplate any transaction prohibited by this Agreement.

"***Insurance Proceeds***" means, with respect to any Casualty Event, the Net Cash Proceeds received by any of the Loan Parties from time to time with respect to such Casualty Event.

"***Intellectual Property***" means the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights, registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress and registrations and applications of registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents and any patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

"***Interconnection Agreements***" means, collectively, (a) the Interconnection Service Agreement dated as of February 26, 2009 by and among the Borrower, PJM and West Penn Power Company (d/b/a Allegheny Power) and (b) the Construction Service Agreement dated as of June 6, 2006 by and among the Borrower, PJM and West Penn Power Company (d/b/a Allegheny Power).

"***Intercreditor Agreement***" means (i) that certain Collateral Agency and Intercreditor Agreement, dated as of the date hereof, by and among the Borrower, Holdings, the Administrative Agent, the Collateral Agent, and each other Person party thereto and (ii) any other collateral agency and intercreditor agreement reasonably acceptable to the Administrative Agent entered into pursuant to clause (xii) of the definition of "Permitted Liens" or clause (vii) of the definition of "Permitted Refinancing Facility" or any other applicable provision herein, among each Loan Party, the Collateral Agent, the Administrative Agent, and each other Person party thereto.

"***Interest Expense***" means, for any period, total interest expense (including that portion attributable to Capitalized Leases in accordance with GAAP, taking into account any net costs or net payments made or received by any of the Loan Parties under any Interest Rate Hedges) of the Loan Parties, including all commissions, discounts and other fees and charges owed with respect to Letters of Credit, but excluding, however, any amount not payable in Cash, in each case for such period.

"***Interest Payment Date***" means, with respect to (a) any Base Rate Advance or any fees, each March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Closing Date and the final maturity date of such Advance; and (b) any Eurodollar Rate Advance, the last day of each Interest Period applicable to such Advance; *provided* that in the case of each Interest Period of longer than three months "***Interest Payment Date***" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

"***Interest Period***" means, in connection with a Eurodollar Rate Advance, an interest period of one, two, three or six months (or twelve months if agreed to by all relevant Lenders), as selected by the Borrower in its Funding Notice or Conversion/Continuation Notice, (a) initially, commencing on the Closing Date, the date of any Eurodollar Rate Advance or the date of the Conversion of any Base Rate Advance into such Eurodollar Rate Advance, as the case may be; and (b) thereafter, commencing on the day on which the immediately preceding Interest Period expires; *provided* that, (i) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day unless no further Business Day occurs in such month, in which case such Interest Period shall expire on the immediately preceding Business Day, (ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to sub-clause (iii) of this definition, end on the last Business Day of a calendar month, (iii) no Interest Period with respect to any portion of the Term B Facility shall extend beyond the Term B Facility Maturity Date and (iv) no Interest Period with respect to any portion of the Working Capital Advances or the L/C Advances shall extend beyond the Revolving Facility Maturity Date.

"***Interest Rate Determination Date***" means, with respect to any Interest Period, the date that is two Business Days prior to the first day of such Interest Period.

"***Interest Rate Hedge***" means, individually or collectively, as the context may require, each interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of hedging the interest rate exposure under this Agreement.

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

"***Investment***" means (a) any direct or indirect purchase or other acquisition by any of the Loan Parties of, or of a beneficial interest in, any of the Securities of any other Person; (b) any direct or indirect redemption, retirement, purchase or other acquisition for value, by any Loan Party from any Person, of any Capital Stock of such Person; and (c) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contributions by any of the Loan Parties to any other Person, including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business. The amount of any Investment shall be the original cost of such Investment *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write ups, write downs or write offs with respect to such Investment.

"***IRS***" means the United States Internal Revenue Service.

"***ISDA***" means International Swaps and Derivatives Association, Inc.

"***Issuing Bank***" means Morgan Stanley Bank, N.A. and each other Acceptable Bank or Eligible Assignee appointed as an Issuing Bank pursuant to Section 3.07 or to which any L/C Commitment or portion thereof is assigned in accordance with Section 11.06 so long as such Person expressly agrees to perform in accordance with their terms all of the obligations that by the terms of this Agreement are required to be performed by it as an Issuing Bank and notifies the Administrative Agent of its Applicable Lending Office and the amount of its L/C Commitment (which information shall be recorded by the Administrative Agent in the Register), for so long as such Person shall have a L/C Commitment.

"***Joinder Agreement***" means an agreement substantially in the form of Exhibit J.

"***Joint Lead Arrangers***" means, individually or collectively, as the context may require, Morgan Stanley and KKR Capital Markets LLC.

"***Joint Venture***" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form; *provided* that in no event shall any corporate Subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

"***Latest Maturity Date***" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including

the latest maturity or expiration date of any Incremental Facilities, Loans of an Extending Lender or any other refinancing, renewal, extension or replacement of the Loans or Commitments under the Loan Documents.

"***L/C Advance***" has the meaning specified in Section 3.04(e).

"***L/C Commitment***" means, with respect to any Issuing Bank at any time, the amount set forth opposite such Issuing Bank's name on Schedule I hereto or, if such Issuing Bank has entered into one or more Assignment and Assumptions, set forth for such Issuing Bank in the Register maintained by the Administrative Agent as such Issuing Bank's "L/C Commitment," as such amount may be reduced at or prior to such time pursuant to Section 4.01; *provided*, that the aggregate amount of all L/C Commitments shall not exceed the Total L/C Commitment.

"***L/C Credit Extension Request***" has the meaning specified in Section 3.02.

"***L/C Exposure***" means, at any time, the sum of (a) the aggregate Available Amount of all Letters of Credit issued and outstanding at such time, plus (b) the aggregate amount of all unreimbursed Drawing Amounts made in respect of Letters of Credit at such time.

"***L/C Reimbursement***" has the meaning specified in Section 3.04(b).

"***L/C Related Documents***" has the meaning specified in Section 3.05(a).

"***Leases***" means any and all leases, subleases, tenancies, options, concession agreements, rental agreements, occupancy agreements, franchise agreements, access agreements and any other agreements (including all amendments, extensions, replacements, renewals, modifications and/or guarantees thereof), whether or not of record and whether now in existence or hereafter entered into, affecting the use or occupancy of all or any portion of any Real Estate Asset, including, without limitation, the Ground Lease.

"***Lender Party***" means, individually or collectively, as the context may require, any Lender or any Issuing Bank.

"***Lenders***" means the lenders signatory to this agreement on the Closing Date and each Person that shall become a Lender hereunder pursuant to an Assignment and Assumption or a Joinder Agreement for so long as such Lender or Person, as the case may be, shall be a party to this Agreement.

"***Letter of Credit***" means, individually or collectively, as the context may require, a Working Capital Letter of Credit or a DSRA Letter of Credit.

*"**Letter of Credit Application**"* has the meaning set forth in Section 3.02.

"***Lien***" means (a) any lien, mortgage, deed of trust, deed to secure debt, pledge, collateral assignment, security interest, charge or encumbrance of any kind (including

any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease or license in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing and (b) in the case of Securities, any purchase option, call or similar right of a third party with respect to such Securities. For the avoidance of doubt, "***Lien***" shall not include any netting or set-off arrangements under any Contractual Obligation (other than any Contractual Obligation constituting debt for borrowed money or having the effect of debt for borrowed money) otherwise permitted under the terms of this Agreement.

"***Loan Documents***" means, individually or collectively, as the context may require, (a) this Agreement, (b) the Notes (if any), (c) any Intercreditor Agreement, (d) the Collateral Documents, (e) the Fee Letters and (f) solely for purposes of the term "Guaranteed Obligations" (and not for any other purpose), each Hedge Agreement to which a Secured Party is a party.

"***Loan Parties***" means the Borrower and the Guarantors.

"***Longview Parties***" means each Loan Party (other than Mepco and its Subsidiaries).

"***Longview Revenue Account***" has the meaning specified in the Depositary Agreement.

"***Longview Revenues***" has the meaning specified in the Depositary Agreement.

"***Major Maintenance Account***" has the meaning specified in the Depositary Agreement.

"***Major Maintenance Expenses***" means all costs (other than administrative costs and costs incurred in connection with the normal maintenance of the Project) incurred by any Longview Party in accordance with Prudent Industry Practice for any overhaul of, or major maintenance procedure for, the Project or any part thereof which requires significant disassembly or shutdown of the Project (excluding any such costs that are payable by other Persons under warranty or similar agreements or insurance policies) and all expenditures related to long term service agreements or parts or services agreements to the extent such agreements are in effect on the Closing Date or are otherwise entered into in accordance with the terms hereof; *provided* that all Capital Expenditures and all expenditures referred to in clauses (i) through (iv) and clauses (vi) through (vii) of the definition of "Capital Expenditures", and all other maintenance work, in each case shall be deemed to not be Major Maintenance Expenses for purposes of this Agreement and the other Loan Documents.

"***Margin Stock***" has the meaning specified in Regulation U.

"***Material Adverse Effect***" means a material adverse effect on (a) the business, assets, liabilities, operations, financial condition, properties or operating results of the Loan Parties taken as a whole, (b) the ability of the Loan Parties, taken as a whole, to fully and timely perform their material Obligations under the Loan Documents, (c) the

material rights, remedies or benefits available to the Agents and the Lender Parties, taken as a whole, under the Loan Documents or (d) the legality, validity, binding effect or enforceability against any Loan Party of a Loan Document to which it is a party; *provided*, for the avoidance of doubt, any event arising out of the 2015 Major Outage (as defined in the Depositary Agreement) shall not constitute a Material Adverse Effect to the extent (i) reasonably determined by the Borrower to be necessary in connection with Prudent Utility Practices, (ii) disclosed on Schedule 1.01(b), (iii) Holdings and its subsidiaries have adequate financial reserves or other funds on deposit to pay for such additional actions, and (iv) any additional actions required to be taken with respect to the 2015 Major Outage (as defined in the Depositary Agreement) will not cause the end date of the 2015 Major Outage (as defined in the Depositary Agreement) to be later than August 28, 2015.

"***Material Environmental Amount***" has the meaning specified in Section 7.03(j).

"***Material Project Agreement***" means each of (i) the Foster Wheeler Settlement Agreement, (ii) the Siemens GSA and (iii) the Interconnection Agreements.

"***MBR Authority***" means authorization by FERC pursuant to Section 205 of the FPA to sell electric energy, capacity and specified ancillary services at wholesale in interstate commerce at market-based rates, acceptance by FERC of a tariff describing such authorized sales and setting forth any conditions or limitations relating thereto, and granting such regulatory waivers and blanket authorizations as are customarily granted by FERC to entities with market-based rate authority, including blanket authorization pursuant to Section 204 of the FPA to issue securities and assume liabilities.

"***Measurement Period***" means each period of four consecutive Fiscal Quarters of the Borrower.

"***Mepco***" means Mepco Holdings, LLC, a Delaware limited liability company.

"***Mepco Excluded Property***" means those Real Estate Assets of Mepco and its Subsidiaries listed on Schedule IV.

"***MFN Adjustments***" has the meaning specified in Section 2.08(a)(vii).

"***Mines***" means the 4 West Mine, the Prime No. 1 Mine, the Crawdad Portal B No. 8 Mine, and the Robena surface mine, all other active mines owned by the Mepco Group Members as of the Closing Date and all additional mines opened or reopened by Mepco or any Mepco Subsidiaries after the Closing Date.

"***Minimum Collateral Amount***" means, at any time, with respect to Cash Collateral consisting of Cash, an amount equal to 102.5% of the aggregate Available Amount of all Letters of Credit issued and outstanding at such time of all Issuing Banks with respect to Letters of Credit issued and outstanding at such time.

"***Mining Financial Assurances***" shall have the meaning assigned to such term in Section 6.02(k)(viii)(B).

"***Mining Laws***" means any and all applicable current or future foreign or domestic, federal, state or local (or any other subdivision) laws, rules, orders, regulations, statutes, ordinances, guidelines, codes, decrees, or other legally enforceable requirements (including common law), regulating, relating to or imposing liability or standards of conduct concerning surface or subsurface mining operations and activities, coal processing, coal transport, beneficial use or disposal of coal by-products, coal refuse disposal activities, and collection, treatment or disposal of mine drainage. Mining Laws shall include, but not be limited to, the Federal Coal Leasing Amendments Act, 30 U.S.C. §§181 et seq.; SMCRA; all other applicable land reclamation and use statutes and regulations; the Federal Mine Safety Act; the Black Lung Act; and the Coal Industry Retiree Health Benefit Act of 1992, 26 U.S.C. §§9701 et seq., each as amended, and any comparable state and local laws or regulations.

"***Money Laundering Laws***" has the meaning specified in Section 6.01(aa)(iii).

"***Moody's***" means Moody's Investors Service, Inc.

"***Morgan Stanley***" means Morgan Stanley Senior Funding, Inc.

"***Mortgaged Property***" means any Real Estate Assets then owned by any Loan Party that is subject to a Mortgage.

"***Mortgages***" has the meaning specified in Section 5.01(b)(ii).

"***Multiemployer Plan***" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA and that is subject to Title IV of ERISA.

"***MW***" means a megawatt (or 1,000 kilowatts) of electric generation capacity.

"***Net Cash Proceeds***" means:

(i) with respect to any Asset Sale, the excess, if any, of (a) the sum of Cash and Cash Equivalents received by the Loan Parties in connection with such Asset Sale (including any Cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and including any proceeds received as a result of unwinding any related Interest Rate Hedge in connection with such related transaction) minus (b) the sum of (1) the reasonable out of pocket costs, fees, commissions, premiums and expenses (including legal fees and expenses) incurred by the Loan Parties in connection with such Asset Sale to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a), (2) federal, state, provincial, foreign and local Taxes reasonably estimated (on a Consolidated basis) to be payable by the Loan Parties (or their respective beneficial owner(s)) as a result of any gain recognized in connection therewith to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a), (3) the principal amount, premium or penalty, if any, and interest, breakage costs or

other amounts of any Debt (other than Debt under the Transaction Documents) that is secured by the Property subject to such Asset Sale and is required to be repaid in connection with such Asset Sale, to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a), (4) any costs associated with unwinding any related Interest Rate Hedge in connection with such transaction and (5) a reasonable reserve determined by a Financial Officer of the Borrower in its reasonable business judgment and to the extent required under the applicable purchase agreement for any purchase price adjustments (including working capital adjustments or adjustments attributable to seller's indemnities and representations and warranties to purchaser in respect of such Asset Sale) expressly contemplated by the purchase agreement relating to such Asset Sale;

(ii) with respect to the incurrence or issuance of any Debt by any of the Loan Parties, the excess, if any, of (a) the sum of the Cash and Cash Equivalents received by the Loan Parties in connection with such incurrence or issuance (including any proceeds received as a result of unwinding any related Interest Rate Hedge in connection with such related transaction) over (b) the underwriting discounts and commissions or other similar payments, and other reasonable out of pocket costs, fees, commissions, premiums and expenses (including legal fees and expenses and any costs associated with unwinding any related Interest Rate Hedge in connection with such transaction) incurred by the Loan Parties in connection with such incurrence or issuance to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a);

(iii) with respect to any proceeds of or under any casualty or property insurance, indemnity, condemnation awards, warranty or guaranty received by the Loan Parties in connection with the occurrence of any Casualty Event or Event of Eminent Domain, the excess, if any, of (a) the sum of Cash and Cash Equivalents received by the Loan Parties in connection with such Casualty Event or Event of Eminent Domain (including any proceeds received as a result of unwinding any related Interest Rate Hedge in connection with such related transaction) over (b) the sum of (1) the reasonable out of pocket costs and expenses (including legal fees and expenses) incurred by the Loan Parties in connection with the collection, enforcement, negotiation, consummation, settlement, proceedings, administration or other activity related to the receipt or collection of the relevant proceeds to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a), (2) any costs associated with unwinding any related Interest Rate Hedge in connection with such transaction and (3) federal, state, provincial, foreign and local Taxes reasonably estimated (on a Consolidated basis) to be payable by the Loan Parties (or their respective beneficial owner(s)) as a result of any gain recognized in connection therewith; and

(iv) with respect to any proceeds of involuntary contractual termination payments received by the Loan Parties in connection with the occurrence of any

Contract Termination Event, the excess, if any, of (a) the sum of Cash and Cash Equivalents received by the Loan Parties in connection with such Contract Termination Event over (b) the sum of (1) the reasonable out of pocket costs and expenses (including legal fees and expenses) incurred by the Loan Parties in connection with the collection, enforcement, negotiation, consummation, settlement, proceedings, administration or other activity related to the receipt or collection of the relevant proceeds to the extent such amounts were not deducted in determining the amount referred to in sub-clause (a) and (2) federal, state, provincial, foreign and local Taxes reasonably estimated (on a Consolidated basis) to be payable by the Loan Parties (or their respective beneficial owner(s)) as a result of any gain recognized in connection therewith; *provided*; "Net Cash Proceeds" shall in all instances exclude Business Interruption Insurance Proceeds.

"***Non-Appealable***" means, with respect to any specified time period allowing an appeal of any ruling under any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding or injunction that such specified time period has elapsed without an appeal having been brought.

"***Non-Consenting Lender***" means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all affected Lenders in accordance with the terms of Section 11.05(b) and (ii) has been approved by the Required Lenders.

"***Non-Defaulting Lender***" means, at any time, a Lender that is not a Defaulting Lender.

"***Non-Extending Lender***" has the meaning specified in Section 4.10.

"***Note***" means, individually or collectively, as the context may require, a Term B Note or a Revolving Note.

"***Notice***" means, individually or collectively, as the context may require, a Funding Notice, an L/C Credit Extension Request or a Conversion/Continuation Notice.

"***Notice of Termination***" has the meaning specified in Section 3.01(b).

"***Obligation***" means all obligations of every nature of each Loan Party, including obligations from time to time owed to any Agent (including former Agents) or any Lender Party from time to time under any Loan Document, whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to such Loan Party, would have accrued on any Obligation, whether or not a claim is allowed against such Loan Party for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, fees, expenses, indemnification or otherwise, *provided* that, as used herein with respect to an obligation of a Loan Party hereunder or under any other Loan Document, solely for purposes of the term "Guaranteed Obligations", the term "Obligation" shall include Obligations owing to any Secured Party under any Hedge Agreement.

"***OECD***" means the Organization for Economic Cooperation and Development.

"***OFAC***" means the U.S. Department of Treasury Office of Foreign Assets Control.

"***OFAC SDN List***" means the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC.

"***OFAC Violation***" has the meaning specified in Section 7.03(m)(i).

"***OID***" has the meaning specified in Section 2.08(a)(vii).

"***Operating & Maintenance Expenses***" means all costs and expenses incurred in connection with the operation and maintenance of the Project (in each case payable by the Longview Parties and not reimbursed by any other Person), including, without limitation or duplication:

(a) expenses of administering and operating the Project and of maintaining the Project in good repair and operating condition consistent with the Material Project Agreements and Prudent Industry Practices (including, without limitation, fuel costs, transportation costs, fuel storage costs, any fees due and payable under the Material Project Agreements, deposits of cash collateral with third parties to the extent the same is a Permitted Lien and reasonable general and administrative expenses, including expenditures incurred to keep the Collateral free and clear of all Liens (other than Permitted Liens),

(b) direct operating and maintenance costs of the Project, including payments under any parts agreement, payments for spare parts, equipment, materials, utilities, repair and routine maintenance services and Capital Expenditures permitted to be incurred under Section 7.02(n) and not excluded pursuant to clause (ii) or (iv) below,

(c) insurance costs in respect of the Project,

(d) Taxes payable by any Longview Party, excluding Taxes based on net income ("***Income Taxes***") of such Longview Party (*provided*, that if any Longview Party becomes subject to Income Taxes as a result of a Change in Law, regulation or administrative practice after the Closing Date, then such Income Taxes shall constitute Operating & Maintenance Expenses),

(e) Ordinary Course Settlement Payments and Interest Expenses paid by the Longview Parties under any Commodity Hedge and Power Sale Agreement,

(f) costs, expenses and fees attendant to obtaining and maintaining in effect any Governmental Authorization,

(g) payments in respect of Permitted Debt (other than as excluded pursuant to clause (iii) below),

(h) legal, accounting and other professional fees and expenses attendant to any of the foregoing items (other than as excluded pursuant to clause (v) below),

(i) administrative fees (including fees, costs and expenses and indemnification payments permitted to be paid from the Revenue Account pursuant to Section 3.1(c)(ii) of the Depositary Agreement),

provided that all of the foregoing costs and expenses shall be determined on a cash basis and shall not include depreciation, amortization and other non-cash items; *provided further* that "*Operating & Maintenance Expenses*" shall not include (i) payments of any kind to Holdings or any Affiliate thereof (other than amounts payable by the Borrower to its Affiliates (including the Loan Parties) pursuant to Material Project Agreements or otherwise permitted pursuant to Section 7.02(o) and the other provisions of the Loan Documents (including this definition of Operating & Maintenance Expenses), (ii) payments of Major Maintenance Expenses from the Major Maintenance Account, (iii) amounts payable under the Loan Documents, any Permitted Refinancing Facility, Interest Rate Hedges or any other debt for borrowed money, (iv) amounts paid with proceeds on deposit in the Reinvestment and Repair Account or the Insurance Proceeds Account, or (v) any Operating and Maintenance Expenses payable or incurred by Mepco and/or its Subsidiaries, *provided further*, however, that, solely for the purpose of calculating the Operating Cash Flow Available for Debt Service and the Debt Service Coverage Ratio, "*Operating & Maintenance Expenses*" shall exclude (x) all Major Maintenance Scheduled Amounts transferred from the Revenue Account to the Major Maintenance Account (each foregoing capitalized term used in this clause (x) being defined in the Depositary Agreement) pursuant to Section 3.1(c)(i) of the Depositary Agreement and (y) Operating & Maintenance Expenses and Major Maintenance Expenses funded with proceeds of any Cash contribution to the common equity of the Borrower.

"***Operating Cash Flow Available for Debt Service***" means, for any Measurement Period, (a) all Longview Revenues during such period *minus* (b) the sum computed, without duplication, of all Operating & Maintenance Expenses of the Longview Parties during such period.

"***Ordinary Course Settlement Payments***" means all regularly scheduled payments due under any Commodity Hedge and Power Sale Agreement or Interest Rate Hedge from time to time, calculated in accordance with the terms of such Commodity Hedge and Power Sale Agreement or Interest Rate Hedge, as applicable, including "Fixed Rate" payment amounts, but excluding, for the avoidance of doubt any "Settlement Amounts" or "Termination Payments" due and payable under such Commodity Hedge and Power Sale Agreement or Interest Rate Hedge in connection with an Early Termination Event.

"***Organizational Documents***" means (a) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its by-laws, as amended, (b) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (c) with respect to any general partnership, its partnership agreement, as amended, and (d) with respect to any limited

liability company, its articles of organization, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "*Organizational Document*" shall only be to a document of a type customarily certified by such governmental official.

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

"***Other Taxes***" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 4.08(b)).

"***Participant***" has the meaning specified in Section 11.06(d).

"***Participant Register***" has the meaning specified in Section 11.06(d).

"***Patriot Act***" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, signed into law October 26, 2001.

"***PBGC***" means the Pension Benefit Guaranty Corporation or any successor thereto.

"***Pending Mine Permits***" has the meaning assigned to such term in Section 6.01(k)(vii).

"***Pension Plan***" means any Employee Benefit Plan, other than a Multiemployer Plan, which is or was subject to Title IV of ERISA, Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"***Permitted Debt***" means any Debt permitted to be incurred by a Loan Party in accordance with Section 7.02(b).

"***Permitted Investment***" means, with respect to any Asset Sale, Casualty Event, Contract Termination Event or Event of Eminent Domain, the application of any related Net Cash Proceeds to the purchase of any Property useful in the Business in accordance with the terms of the Transaction Documents.

"***Permitted Liens***" means:

(i) Liens for Taxes, to the extent not required to be paid pursuant to Section 7.01(b);

(ii) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens arising in the ordinary course of business which secure amounts not overdue for a period of more than 30 days or if more than 30 days overdue, are unfiled and no other action has been taken to enforce such Lien or which are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP to the extent required by GAAP;

(iii) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds (other than bonds related to judgment or litigation to the extent such judgment or litigation constitutes a Default), bids, leases, government contracts, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of Debt), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any material portion of Property of the Loan Parties;

(iv) easements, rights-of-way, restrictions, title imperfections, encroachments, other minor defects or irregularities in title and similar matters if the same were not incurred in connection with Debt and do not materially detract from the operation, value or use of the Business in the ordinary conduct of the business of the Loan Parties (taken as a whole);

(v) Liens representing (i) any interest or title of a licensor, lessor or sublicensor or sublessor under any lease (including a ground lease) or license permitted by this Agreement, (ii) any Lien or restriction that the interest or title of such lessor, licensor, sublessor or sublicensor may be subject to, or (iii) the interest of a licensee, lessee, sublicensee or sublessee arising by virtue of being granted a license or lease permitted by this Agreement, provided that, in the case of any of clauses (i), (ii) or (iii), the same does not materially detract from the operation or use of the Property in the ordinary conduct of the business of the Loan Parties (taken as a whole);

(vi) Liens solely on any cash earnest money deposits made by any of the Loan Parties in connection with any letter of intent or purchase agreement permitted hereunder;

(vii) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(viii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(ix) encumbrances on real property in the nature of any zoning restrictions, building and land use laws, ordinances, orders, decrees, restrictions or any other conditions imposed by any Governmental Authority on any Real Estate Asset, if the same was not incurred in connection with Debt and does not have a materially adverse effect on the operation, value or use of the Business or Project in the ordinary conduct of the business of the Loan Parties;

(x) non-exclusive outbound licenses of patents, copyrights, trademarks and other Intellectual Property rights granted by any of the Loan Parties in the ordinary course of business and not interfering in any respect with the ordinary conduct of or materially detracting from the value of the business of such Loan Party;

(xi) all exceptions disclosed in (i) any final Title Policy issued to Collateral Agent pursuant to the terms of this Agreement or (ii) in any final survey delivered to the Administrative Agent on the Closing Date pursuant to Section 5.01(b)(ii);

(xii) Liens under the Collateral Documents;

(xiii) Liens or pledges of deposits of Cash or Cash Equivalents securing letters of credit permitted under Section 7.02(b)(xiv);

(xiv) any Lien with respect to the Properties of any Loan Party that arose under Prudent Industry Practices or Prudent Coal Industry Practice, as the case may be, on or prior to the Closing Date and the foreclosure of which is not material to the operation or use of the Business or Project in the ordinary course of business, provided that such Liens do not secure Debt and provided further that in all instances such Liens are limited to the assets or Properties that are the subject of the relevant agreement, program, order or contract;

(xv) purchase money Liens upon or in real property or equipment acquired or held by any of the Loan Parties in the ordinary course of business securing the purchase price of such property or equipment or to secure Debt incurred solely for the purpose of financing the acquisition, construction or improvement of any such property or equipment to be subject to such Liens, or Liens existing on any such property or equipment at the time of acquisition (other than any such Liens created in contemplation of such acquisition that do not secure the purchase price), or extensions, renewals or replacements of any of the foregoing for the same or a lesser amount; *provided* that no such Lien shall extend to or cover any property other than the property or equipment being acquired, constructed or improved, and no such extension, renewal or replacement shall extend to or cover any property not theretofore subject to the Lien being extended, renewed or replaced; provided *further* that the aggregate principal amount of the Debt secured by Liens permitted by this

clause (xv) shall not exceed the amount permitted under Section 7.02(b)(iii) at any time outstanding;

(xvi) Liens arising under Capitalized Leases permitted under Section 7.02(b)(iv); *provided* that no such Lien shall extend to or cover any Collateral or Property other than the Property subject to such Capitalized Leases;

(xvii) Liens encumbering (a) to the extent pledged to an energy manager or fuel supplier on customary terms, accounts receivable (and accounts into which the proceeds of such accounts receivable are deposited) owed by any Person to any Loan Party for the purchase of electric energy and other related products or services, or (b) margin, clearing or similar accounts with or on behalf of brokers, credit clearing organizations, independent system operators, regional transmission organizations, pipelines, state agencies, federal agencies, futures contract brokers, exchanges related to the trading of energy (including the Intercontinental Exchange), or issuers of surety bonds and any proceeds thereof in an aggregate amount not to exceed, when taken together with any outstanding Liens permitted to be incurred pursuant to subclause (xxiv) below, $40,000,000 at any time outstanding in the aggregate for the Loan Parties;

(xviii) Liens securing judgments (or the payment of money not constituting a Default under Section 8.01(h)) or securing appeal or other surety bonds related to such judgments;

(xix) Liens arising by virtue of any statutory or common law provision relating to bankers' liens, rights of set-off or similar rights;

(xx) Pledges of deposits of Cash or Cash Equivalents or Liens securing deductibles, self-insurance, co-payment, co-insurance, retentions or similar obligations to providers or property, casualty or liability insurance in the ordinary course of business;

(xxi) any Liens with respect to the Properties of any Loan Party that arise under Contractual Obligations of any Loan Party as in effect on the Closing Date and are disclosed on Schedule II and extension, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest (including any portion thereof which is payable in kind in accordance with the terms of such extended, renewed or replaced Debt) and premium payable by the terms of such obligations thereon and reasonable fees and expenses associated therewith);

(xxii) Liens consisting of an agreement to Dispose of any property in a Disposition permitted hereunder solely to the extent that such investment or Disposition would have been permitted on the date of the creation of such Lien;

(xxiii) Liens in favor of an energy manager, PJM or fuel supplier in accounts receivable (and accounts into which the proceeds of such accounts receivable are deposited) owed by PJM or any other Person to any Loan Party for the purchase of electric energy, electric capacity, ancillary services, coal, gas, fuel oil and other related products, commodities or services;

(xxiv) Liens on deposits in cash and Cash Equivalents, in an aggregate amount not to exceed, when taken together with any outstanding Liens permitted to be incurred pursuant to subclause (xvii) above, $40,000,000 at any time outstanding in the aggregate for the Loan Parties, securing either (A) reimbursement obligations of the Loan Parties pursuant to the Cash Collateralized LC Facility Agreements in favor of Cash Collateralized LC Issuing Banks and/or (B) collateral posting obligations of the Loan Parties under contractual obligations of the Loan Parties; and

(xxv) Liens arising out of any condemnation eminent domain proceedings affecting any real property;

(xxvi) Liens created pursuant to Insurance Premium Financing Arrangements, so long as such Liens attach only to gross unearned premiums for the insurance policies and related rights;

(xxvii) Liens of bailees in the ordinary course of business; and

(xxviii) additional Liens securing obligations in an aggregate amount not to exceed $7,000,000 at any time.

"***Permitted Refinancing Facility***" means (a) one or more senior unsecured term loans, (b) one or more series of senior unsecured notes, (c) one or more senior secured loans or (d) one or more series of senior secured notes, in each case, the proceeds of which is incurred to Refinance all or any portion of any Facility; ***provided*** that:

(i) the aggregate principal amount of such Debt does not exceed the sum of (A) the aggregate principal amount of the Advances or Commitments so Refinanced immediately prior to such Refinancing *plus* (B) the amount of any accrued and unpaid interest, premiums, fees and expenses in respect of the outstanding principal amount of Advances immediately prior to such Refinancing *plus* (C) the amount of any reasonable fees and expenses incurred in connection with such Refinancing plus (D) any amounts required to fund any debt service reserve account under such Permitted Refinancing Facility;

(ii) such Debt shall have a final maturity date (or require mandatory commitment reduction in full) equal to or later than the date that is six (6) months after the final maturity date of, and a weighted average life to maturity not less than six (6) months greater than the weighted average life to maturity of, the Debt so Refinanced;

(iii) such Debt shall rank *pari passu* or junior in right of payment with any remaining portion of the Facility being Refinanced and *pari passu*, junior or unsecured with respect to security with any remaining portion of the Term B Facility or the Revolving Facility, as applicable, and shall not be secured by any Property other than the Collateral or guaranteed by any other Person that does not guarantee the Facilities;

(iv) (A) the terms and conditions, taken as a whole, of such Debt are not materially more favorable in the aggregate to the investors providing such Debt than those to the applicable Facility being Refinanced (as determined by the Borrower in good faith) (except for covenants or other provisions applicable only to periods after the final maturity date of the applicable Facility existing at the time of such Refinancing), (B) any Debt in the form of a revolving facility will provide for borrowings, revolving letter of credit participations, prepayments and commitment reductions to be made on a *pro rata* basis among the Revolving Facility, such refinancing Debt and any such other then-existing refinancing Debt and (C) in no event shall any refinancing Debt (other than one in the form of a revolving facility) be permitted to be voluntarily prepaid prior to the repayment in full of the Term B Advances, unless accompanied by a ratable prepayment of loans under the Term B Advances (it being understood, for the avoidance of doubt, that no prepayment of the Term B Advances shall be required in order to prepay any refinancing Debt that is a revolving facility);

(v) both immediately before and after giving effect to the incurrence of such Debt, (A) no Default or Event of Default shall have occurred and be continuing and (B) the Borrower would be in compliance with the Financial Covenant as of the most recently completed Measurement Period ending prior to the incurrence of such Debt for which the financial statements and certificates required by Section 7.03(b) or 7.03(c) were required to be delivered, after giving *pro forma* effect to the incurrence of such Debt and to any other event occurring after such Measurement Period as to which *pro forma* recalculation is appropriate as if such transactions had occurred as of the first day of such Measurement Period;

(vi) the Borrower shall have delivered a certificate of a Financial Officer of the Borrower to the Administrative Agent certifying and showing (in reasonable detail and with appropriate calculations and computations in all respects reasonably satisfactory to the Administrative Agent) that the conditions set forth in clause (v) of this definition in connection with the incurrence of such Debt have been satisfied;

(vii) (A) with respect to any secured Permitted Refinancing Facility, the parties to the agreement evidencing such Debt (or an agent or trustee on their behalf) shall become a party to an Intercreditor Agreement and (B) the Loan Parties, the Administrative Agent and, if such Permitted Refinancing Facility is to be documented under the Credit Agreement, the parties to the agreement

evidencing such Debt (or agent or trustee on their behalf) shall become party to any associated amendments to the Loan Documents reasonably satisfactory to the Administrative Agent pursuant to Section 11.05(d); and

(viii) the proceeds of such Debt shall be applied, substantially concurrently with the incurrence thereof, to the pro rata prepayment of outstanding loans (and, in the case of any revolving facility (including the Revolving Facility), pro rata commitment reductions) under the applicable Facility being so Refinanced and the payment of fees, expenses and premiums, if any, payable in connection therewith.

"***Permitted Secured Commodity Hedge and Power Sale Agreement***" means any Commodity Hedge and Power Sale Agreement entered into in accordance with Section 7.02(m) that (a) by its terms is required to be secured by a Lien that is *pari passu* with or junior to the Liens securing the Obligations and that is designated as such by the Borrower in a written notice delivered to the Administrative Agent, (b) is entered into with a Person that is a Commodity Hedge Counterparty as of the time entered into, (c) is documented or based on forms prepared by the ISDA, the Edison Electric Institute or the North American Energy Standards Board, with confirmations and schedules customary for transactions of such type and (d) relates to the capacity, energy, heat rate, dispatch, fuel requirements or similar aspects of the Project and includes applicable technical parameters corresponding to the technical capability of the Project (including heat rate, start gas, start cost and variable operations and maintenance expenses).

"***Permitted Trading Activity***" means:

(i) the daily or forward purchase and/or sale, or other acquisition or disposition of wholesale or retail electric energy, capacity, ancillary services, transmission rights, emissions allowances, weather derivatives and/or related commodities, in each case, whether physical or financial;

(ii) the daily or forward purchase and/or sale, or other acquisition or disposition of fuel, mineral rights and/or related commodities, including, swaps, options and swaptions, in each case, whether physical or financial;

(iii) electric energy-related tolling transactions, as seller or tolling services;

(iv) price risk management activities or services;

(v) other similar electric industry activities or services; or

(vi) additional services as may be consistent with Prudent Industry Practice or Prudent Coal Industry Practice, as the case may be, from time to time in support of the marketing and trading related to the Property of any of the Loan Parties,

in each case, to the extent such activity is conducted in the ordinary course of business of the Loan Parties.

"***Person***" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

"***PJM***" means PJM Interconnection, L.L.C., and any successor entity thereto.

"***PJM Auction***" means a PJM Base Residual Auction or a PJM Incremental Auction.

"***PJM Base Residual Auction***" has the meaning given to such term in the PJM Rules.

"***PJM Incremental Auction***" has the meaning given to such term in the PJM Rules.

"***PJM Markets***" means those markets administered by PJM from time to time, which include, but are not limited to, the Day-Ahead Energy Market, Hourly Day-Ahead Market, Real-Time Energy Market and Ancillary Services Market.

"***PJM OATT***" means the open access transmission tariff for PJM currently on-file and accepted by the FERC.

"***PJM Rules***" means the policies, rules, guidelines, procedures, standards and criteria applicable to market participants in PJM, including the PJM OATT.

"***Plan of Reorganization***" means that certain Second Amended Joint Plan of Reorganization, dated as of March 16, 2015 (as amended, modified, or supplemented with the prior written consent of the Administrative Agent), providing for the proposed reorganization of the Borrower and Holdings pursuant to Chapter 11 of the Bankruptcy Code.

"***Platform***" has the meaning specified in Section 11.01(d)(i).

"***Pledge and Security Agreement***" means the Pledge and Security Agreement in substantially the form of Exhibit D among the Loan Parties and the Collateral Agent.

"***Pledged Equity Interests***" has the meaning specified in the Pledge and Security Agreement.

"***Post-Petition Interest***" has the meaning specified in Section 10.05(b).

"***Prime Rate***" means the rate of interest quoted in *The Wall Street Journal,* Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 75% of the nation's thirty largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or any other Lender

may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"***Pro Rata Share***" means, with respect to any amount, and subject to the Borrower's rights in Section 4.08, (a) with respect to any Revolving Lender at any time and with respect to the Revolving Facility, the product of such amount *multiplied by* a fraction the numerator of which is the amount of such Lender's Revolving Commitment at such time and the denominator of which is the aggregate amount of the Revolving Lenders' Revolving Commitments at such time, (b) with respect to any Term B Lender at any time and with respect to the Term B Facility, the product of such amount *multiplied by* a fraction the numerator of which is the amount of Advances owed to such Term B Lender under the Term B Facility at such time and the denominator of which is the aggregate amount of the Advances then outstanding and owed to all Term B Lenders under the Term B Facility at such time and (c) with respect to any Issuing Bank at any time and with respect to the L/C Commitments, the product of such amount *multiplied by* a fraction the numerator of which is the amount of such Issuing Bank's L/C Commitment at such time and the denominator of which is the aggregate amount of L/C Commitments of all Issuing Banks at such time.

"***Project***" means the 769 MW coal-fired generating facility located near Morgantown, West Virginia commonly known as Longview and all assets, properties, and appurtenances relating thereto (including inventory, machinery, equipment, vehicles, furniture and other personal property owned or leased by the Borrower or its Affiliates) attached thereto or used in connection or associated therewith (including all files, documents, instruments, books and records owned by or in possession of the Borrower or any of its Affiliates on the Closing Date relating primarily to the business, operation, maintenance and condition of such facility).

"***Property***" means any right or interest in or to any asset or property of any kind whatsoever (including Capital Stock, undivided interests and interests as tenants in common), whether real, personal or mixed and whether tangible or intangible.

"***Prudent Industry Practice***" means those reasonable practices, methods, techniques, specifications and standards of safety and performance, as they may be modified from time to time, that (a) are generally accepted in the electric generating and transmission industry as good, safe and prudent engineering practices in connection with the design, construction, operation, maintenance, repair or use of electric generating and transmission facilities which are similar to the Project and (b) are otherwise in compliance in all material respects with applicable law and Governmental Authorizations. Prudent Industry Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region or as required by any Governmental Authority or standards setting agency or entity including but not limited to FERC, the North American Electric Reliability Corporation and PJM.

"***Prudent Coal Industry Practice***" means those reasonable practices, methods and acts which (a) are commonly used by a prudent coal mine operator in the United States to

manage, operate and maintain a coal mine and associated equipment and processing facilities of the type that comprise the Mines (giving due regard to the location of the Mines and any surrounding mines and other hazards), safely, reliably, and efficiently and in compliance in all material respects with applicable laws, codes and standards, manufacturers' warranties and manufacturers' recommendations and (b) are necessary in the exercise of reasonable judgment, skill, diligence, foresight and care expected of a prudent coal mine operator in the United States, in order to efficiently accomplish the desired result consistent with safety standards, applicable laws, codes and standards, manufacturers' warranties and manufacturers' recommendations. Prudent Coal Industry Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region or as required by any Governmental Authority or standards setting agency or entity.

"***PUHCA***" means the Public Utility Holding Company Act of 2005, as amended from time to time hereafter, and any successor statute, and the implementing regulations of FERC.

"***Qualified ECP Guarantor***" means, in respect of any Swap Obligation, each Guarantor that has total assets exceeding $10,000,000 at the time the relevant Guaranty or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"***Qualified Operator***" means a Person (or any of its Affiliates) that (1) is a past or present direct or indirect owner of one or more fossil fuel electric generating facilities aggregating at least 500 MW (exclusive of the Project) or (2) has (or has contracted with a third party operator that has) substantial experience as an operator of fossil fuel electric generating facilities.

"***Ratings Reaffirmation***" means, with respect to any applicable transaction, that each of S&P and Moody's shall have delivered a written confirmation that the credit ratings assigned by such entities to the Debt of the Borrower hereunder shall be no lower than such ratings assigned by S&P and Moody's, as the case may be, to such Debt immediately prior to the time that S&P and Moody's, as the case may be, became aware of the proposed occurrence of such event and all transactions related thereto, in each case after giving effect to the occurrence of such proposed transaction, and all transactions related thereto.

"***Reactive Power Tariff***" means Borrower's Rate Schedule FERC No. 1 regarding Reactive Supply and Voltage Control from Generation Sources Service.

"***Real Estate Assets***" means, at any time of determination, any fee or leasehold interest, easement, consent, permit or license, then owned or held by any Loan Party in any real property, together with, in each case, all easements, hereditaments and

appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contracts rights and other property and rights incidental to the ownership, lease or operation thereof.

"***Recipient***" means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

"***Reclamation***" shall mean the reclamation and restoration of land, water and any future, current, abandoned or former mines, and of any other Environment affected by such mines, as required pursuant to any Environmental Law or Mining Law or any Environmental or Mining Permit.

"***Reduction Amount***" has the meaning specified in Section 2.04(b)(vi).

"***Refinance***" means, in respect of any Debt, (a) such Debt (in whole or in part) as extended, renewed, defeased, refinanced, replaced, refunded or repaid and (b) any other Debt issued in exchange or replacement for or to refinance such Debt (in whole or in part), whether with the same or different lenders, arrangers and/or agents and whether with a larger or smaller aggregate principal amount and/or a longer or shorter maturity, in each case to the extent permitted under the terms of all of the Loan Documents. "***Refinanced***" and "***Refinancing***" shall have correlative meanings.

"***Register***" has the meaning specified in Section 11.06(c).

"***Regulation D***" means Regulation D of the Board of Governors, as in effect from time to time.

"***Regulation U***" means Regulation U of the Board of Governors of the Federal Reserve System, as in effect from time to time.

"***Reinvestment and Repair Account***" has the meaning specified in the Depositary Agreement.

"***Reinvestment Notice***" means a written notice executed by a Responsible Officer of the Borrower in connection with the occurrence of any Asset Sale, Contract Termination Event or Casualty Event stating that (a) no Event of Default has occurred and is continuing, to the extent received by any Loan Party, the Asset Sale Proceeds, Insurance Proceeds, the Contract Termination Proceeds or Eminent Domain Proceeds in respect of which such notice is being delivered have been deposited in the Reinvestment and Repair Account (in respect of Asset Sale Proceeds or Contract Termination Proceeds) or Insurance Proceeds Account (in respect of Insurance Proceeds or Eminent Domain Proceeds) for further application in accordance with Section 2.04(b)(ii) and the Depositary Agreement and (b) that the applicable Loan Party intends and expects to reinvest all or a portion of such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds to make a Permitted Investment.

"***Related Parties***" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers,

advisors, successors, partners and representatives of such Person and of such Person's Affiliates.

"***Release***" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into or through the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including, without limitation, the air, soil, surface or subsurface strata, surface water, or groundwater.

"***Removal Effective Date***" has the meaning specified in Section 9.06(a).

"***Repayment Event***" means the repayment in full of all of the outstanding principal amount of the Advances and all other Obligations (other than contingent obligations and Letters of Credit that are Cash Collateralized) due and payable under the Loan Documents, the termination of all Commitments and the termination and cancellation of all Letters of Credit (unless such Letters of Credit are Cash Collateralized).

"***Replacement Project Agreement***" means one or more contracts or agreements which (a) is entered into by any Loan Party in substitution for any Material Project Agreement that has been terminated in accordance with its terms or otherwise replaced, (b) has economic and other terms which, taken as a whole, are not materially less favorable to Loan Parties as the Material Project Agreement being replaced and (c) is with one or more counterparties (or guarantors of such counterparties' obligations) having substantially similar or better creditworthiness (or is otherwise credit supported so that the credit risk of such counterparty is not materially less favorable to the Loan Parties than the existing counterparty) and substantially similar or better experience in the industry, in each case, as the counterparty to the Material Project Agreement being replaced.

"***Repricing Transaction***" means (a) the incurrence of any Debt by the Borrower, (i) having an effective interest rate margin or weighted average yield (after giving effect to factors in a manner consistent with generally accepted financial practice, including interest rate margins, upfront or similar fees, original issue discount or Adjusted Eurodollar Rate or Base Rate floors shared with all lenders or holders thereof, but excluding the effect of any arrangement, structuring, syndication or other fees payable in connection therewith that are not shared with all lenders or holders thereof or any fluctuations in the Adjusted Eurodollar Rate or the Base Rate) that is, or upon the satisfaction of certain conditions could be, less than the effective interest rate margin for, or weighted average yield (to be determined on the same basis) of, the Term B Facility and (ii) the proceeds of which are used to repay, in whole or in part, principal in respect of the Term B Advances and (b) any amendment, amendment and restatement, waiver or other modification of or under this Agreement that would have the effect of reducing the effective interest rate margin for, or weighted average yield (to be determined on the same basis) of, the Term B Facility (other than, in each case, any such transaction or amendment or modification accomplished together with the substantially concurrent

refinancing of all Facilities hereunder in connection with a Change of Control (or a transaction that would have been a Change of Control but for the involvement of a Qualified Operator) or an acquisition not permitted under the Loan Documents).

"***Required Capital Expenditures***" means all Capital Expenditures that are payable by a Loan Party reasonably necessary to permit the Loan Parties to (a) operate or maintain the Project in accordance with Prudent Industry Practices (including the purchase of assets in the ordinary course of business as reasonably required in connection with the operation and maintenance of the Project), (b) operate or maintain the Business (other than the Project) in accordance with Prudent Industry Practices and/or Prudent Coal Industry Practices (including the purchase of assets in the ordinary course of business as reasonably required in connection with the operation and maintenance of the Business) as presently conducted as of the Closing Date or (c) comply with applicable law (including any Environmental Laws or Mining Laws).

"***Required Insurance***" has the meaning specified in Section 7.01(d).

"***Required Lenders***" means, at any time, Lenders holding more than 50% of the sum of (without duplication) the Aggregate Exposure; *provided* that, if any Lender shall be a Defaulting Lender at such time, there shall be excluded from the determination of Required Lenders at such time (i) the aggregate principal amount of the Advances owing to such Lender (in its capacity as a Lender) and outstanding at such time, (ii) such Lender's Pro Rata Share of the aggregate Available Amount of all Letters of Credit outstanding at such time, (iii) such Lender's Pro Rata Share of the aggregate amount of all Unused Revolving Commitments outstanding at such time; *provided further* that (1) neither the Borrower nor any Borrower-Related Party (other than any Affiliated Debt Fund) shall at any time constitute a "Lender" for purposes of this definition and (2) any portion of the Aggregate Exposure held by Affiliated Debt Funds in excess of an amount equal to 49.9% of all Aggregate Exposure of all Lenders shall be excluded in determining "Required Lenders" for any purpose under the Loan Documents (and each individual Affiliated Debt Fund's vote shall be reduced on a pro rata basis to account for such exclusion).

"***Required Rating***" means, with respect to any Commodity Hedge Counterparty that either (a) the unsecured senior debt obligations of such Person are rated at least Baa3 (stable) by Moody's and at least BBB- (stable) by S&P or (b) such Commodity Hedge Counterparty's obligations under any applicable Permitted Secured Commodity Hedge and Power Sale Agreement are guaranteed by a Person whose unsecured senior debt obligations are rated at least Baa3 (stable) by Moody's and at least BBB- (stable) by S&P; *provided* that if, as of any date of determination, such Person does not have any rating for its unsecured senior debt obligations, then such Person's corporate issuer rating shall be at least Baa3 (stable) by Moody's and at least BBB- (stable) by S&P.

"***Resignation Effective Date***" has the meaning specified in Section 9.06(a).

"***Responsible Officer***" means, as to any Person, any individual holding the position of chairman of the board (if an officer), president, chief executive officer or one

of its vice presidents and such Person's treasurer or chief financial officer and any other Person designated as such by such Person and reasonably acceptable to the Administrative Agent.

"***Restricted Payment***" means (a) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock of Holdings now or hereafter outstanding, except a dividend payable solely in shares of that class of stock to the holders of that class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock of Holdings now or hereafter outstanding; (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock of Holdings now or hereafter outstanding; (d) management or similar fees payable to Holdings' Affiliates; and (e) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in substance or legal defeasance), sinking fund or similar payment with respect to, any Debt owed by Holdings or any of its Subsidiaries to any of their Affiliates (other than any Loan Party).

"***Revolving Borrowing***" means a borrowing consisting of simultaneous Working Capital Advances or L/C Advances of the same Type made by the Revolving Lenders.

"***Revolving Commitment***" means, with respect to any Revolving Lender at any time, the amount set forth opposite such Lender's name on Schedule I under the caption "***Revolving Commitment***" or, if such Lender has entered into one or more Assignment and Assumptions or Joinder Agreements, set forth for such Lender in the Register maintained by the Administrative Agent as such Lender's "*Revolving Commitment*," as such amount may be reduced at or prior to such time pursuant to Section 2.04(b) or 4.01.

"***Revolving Facility***" means, at any time, the aggregate amount of the Revolving Lenders' Revolving Commitments at such time; *provided* that the aggregate amount of all Revolving Commitments shall not exceed the Total Revolving Commitment.

"***Revolving Facility Maturity Date***" means the earlier of (a) the date that is five years after the Closing Date and (b) the date of termination in whole of the Revolving Commitments pursuant to Section 4.01 or Section 8.01.

"***Revolving Lender***" means any Lender that has a Revolving Commitment.

"***Revolving Note***" means a promissory note of the Borrower payable to any Revolving Lender, in substantially the form of Exhibit B-2, evidencing the indebtedness of the Borrower to such Lender resulting from the Working Capital Advances and L/C Advances made by such Lender, as amended.

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

"***Sanctions***" has the meaning specified in Section 6.01(aa)(i).

"***Secured Parties***" has the meaning assigned to such term in the Intercreditor Agreement.

"***Securities***" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "*securities*" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"***Securities Act***" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"***Settlement Agreements***" has the meaning specified in the Plan of Reorganization.

"***Siemens GSA***" means that certain Settlement Agreement, dated as of December 31, 2014, by and between the Borrower and Siemens Energy, Inc., and approved pursuant to the 9019 Order (as defined in the Plan of Reorganization).

"***SMCRA***" means the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201 et seq., as amended.

"***Solvency Certificate***" has the meaning specified in Section 5.01(a)(vii).

"***Solvent***" or "***Solvency***" means, with respect to Holdings and its Subsidiaries (taken as a whole), that as of the date of determination, (i) the fair value of the assets of Holdings and its Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their Debts and liabilities, subordinated, contingent or otherwise, (ii) the present fair saleable value of the property of Holdings and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their Debts and other liabilities, subordinated, contingent or otherwise, as such Debts and other liabilities become absolute and matured, (iii) Holdings and its Subsidiaries, on a consolidated basis, are each able to pay their respective Debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured; and (iv) Holdings and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual or matured liability.

"***Steering Group***" means, collectively, those funds and investment accounts affiliated with American Securities, LLC, Centerbridge Partners, L.P., KKR Credit Advisors (US) LLC (f/k/a KKR Asset Management LLC), Metropolitan Life Insurance Company, Tennenbaum Capital Partners, LLC, or Third Avenue Management, LLC, in each case that are set forth on Schedule III.

"***Steering Group Member***" means any individual member of the Steering Group.

"***Subordinated Obligations***" has the meaning specified in Section 10.05.

"***Subsidiary***" means, with respect to any Person, any corporation, partnership, limited liability company, association, Joint Venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or Controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; *provided* that, in determining the percentage of ownership interests of any Person Controlled by another Person, no ownership interest in the nature of a "*qualifying share*" of the former Person shall be deemed to be outstanding. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Holdings.

"***Substitute Advances***" means with respect to a Class of Advances, as certified by any Lender to the Borrower, a reasonable alternative basis for making available or, as the case may be, maintaining such Lender's outstanding Pro Rata Share of Advances of such Class of Advances, including alternative interest periods, alternative types of Advances, alternative currencies or alternative rates of interest, *provided* that the margin above the cost of funds to such Lender is no greater than the margin otherwise payable to such Lender pursuant to this Agreement.

"***Swap Obligation***" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

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

"***Term B Advance***" has the meaning specified in Section 2.01(a)(i).

"***Term B Borrowing***" means an extension and borrowing consisting of Term B Advances of the same Type made by the Term B Lenders pursuant to Section 2.01(a).

"***Term B Commitment***" means, with respect to any Term B Lender at any time, the amount set forth opposite such Lender's name on Schedule I under the caption "*Term B Commitment*" or, if such Lender has entered into one of more Assignment and Assumptions, set forth for such Lender in the Register maintained by the Administrative Agent as such Lender's "*Term B Commitment*," as such amount may be reduced at or prior to such time pursuant to Section 4.01.

"***Term B Facility***" means, at any time, the aggregate amount of the Term B Lenders' Term B Commitments or Term B Advances at such time.

"***Term B Facility Maturity Date***" means the date that is six years after the Closing Date.

"***Term B Lender***" means any Lender that has a Term B Commitment.

"***Term B Note***" means a promissory note of the Borrower payable to any Term B Lender, in substantially the form of Exhibit B-1, evidencing the indebtedness of the Borrower to such Lender resulting from the Term B Advances made by such Lender, as amended.

"***Title Policy***" means each American Land Title Association 2006 Form Lender's Fee and Leasehold Policy of title insurance or such other form as is acceptable to the Lenders or a binding marked commitment to issue such policy dated as of the date of recording of the Mortgages and conditioned solely upon payment of the title premium with respect thereto, in each case, issued by each title company reasonably acceptable to the Administrative Agent, each such policy in an amount acceptable to the Administrative Agent insuring the Lien in favor of the Collateral Agent for the benefit of the Secured Parties created by the Mortgages, subject only to those exceptions approved by the Administrative Agent acting reasonably and containing such endorsements and affirmative assurances as the Administrative Agent shall reasonably require.

"***Total Credit Exposure***" means, as to any Lender at any time, the unused Commitments, L/C Exposure and outstanding Term B Advances or Working Capital Advances of such Lender at such time.

"***Total L/C Commitment***" means $25,000,000.

"***Total Revolving Commitment***" means $25,000,000.

"***Transaction***" means the transactions contemplated by the Transaction Documents (including, for the avoidance of doubt, the Borrower's and the other Guarantors' exit from the Chapter 11 Cases in accordance with the Plan of Reorganization).

"***Transaction Documents***" means, individually or collectively, as the context may require, the Loan Documents and the Material Project Agreements.

"***Type***" refers to the distinction between Advances bearing interest at the Base Rate and Advances bearing interest at the Adjusted Eurodollar Rate.

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

"***U.S. Tax Compliance Certificate***" has the meaning specified in Section 4.06(g)(ii)(B)(iii).

"***UCC***" means the Uniform Commercial Code as in effect from time to time in the State of New York; *provided* that if, with respect to any filing statement or by reason of any provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted to the Collateral Agent pursuant to the applicable Collateral Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, UCC means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of each Loan Document and any filing statement relating to such perfection or effect of perfection or non-perfection.

"***Unrestricted***" means, when referring to cash or Cash Equivalents of any Loan Party, that such cash or Cash Equivalents are on deposit in any deposit account or securities account which are subject to a Control Agreement in favor of the Collateral Agent.

"***Unused L/C Commitment***" means with respect to any Issuing Bank at any time (a) such Issuing Bank's Pro Rata Share of the aggregate amount of the L/C Commitments at such time *minus* (b) such Issuing Bank's Pro Rata Share of the sum of (i) the aggregate principal amount of all Working Capital Advances outstanding at such time and (ii) the L/C Exposure at such time.

"***Unused Revolving Commitment***" means with respect to any Revolving Lender at any time (a) such Lender's Revolving Commitment at such time *minus* (b) the sum of (i) the aggregate principal amount of all Working Capital Advances made by such Lender and outstanding at such time and (ii) such Lender's Pro Rata Share of the L/C Exposure at such time.

"***Withholding Agent***" means any Loan Party and the Administrative Agent.

"***Working Capital Advances***" shall have the meaning ascribed thereto in Section 2.01(b).

"***Working Capital Letter of Credit***" shall have the meaning ascribed thereto in Section 3.01(a)(i).

SECTION 1.02. Rules of Interpretation. Except as otherwise expressly provided, the following rules of interpretation shall apply to this Agreement and the other Loan Documents:

(a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined;

(b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms;

(c) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";

(d) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(e) unless the context requires otherwise, any definition of or reference to any agreement, instrument or other document herein (including any Loan Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or therein) and shall include any appendices, schedules, exhibits, clarification letters, side letters and disclosure letters executed in connection therewith;

(f) any reference herein to any Person shall be construed to include such Person's successors and assigns to the extent permitted under the Loan Documents and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

(g) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof;

(h) all references herein to Articles, Sections, Appendices, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Appendices, Exhibits and Schedules to, this Agreement;

(i) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights;

(j) unless the context requires otherwise, any definition of or reference to any law or regulation shall be construed as referring to such law or regulation as from time to time amended, supplemented or otherwise modified; and

(k) all references to "knowledge" or "awareness" of any Loan Party or a Subsidiary thereof means the actual knowledge of a Responsible Officer of a Loan Party or such Subsidiary and, in the case of the representations made pursuant to Section 6.01(e) and 6.01(k), the knowledge that each such Responsible Officer would have reasonably obtained by holding his or her position as a Responsible Officer; and

(l) when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

SECTION 1.03. Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other

financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, as in effect from time to time, except as otherwise specifically prescribed herein.

(b) If at any time any change in GAAP or the application thereof would affect the computation of any requirement set forth in any Loan Document, and either the Borrower or the Required Lenders through the Administrative Agent shall so request, the Administrative Agent and the Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP or the application thereof (subject to the approval of the Administrative Agent not to be unreasonably withheld, conditioned or delayed); ***provided*** that, until so amended, (i) such requirement shall continue to be computed in accordance with GAAP or the application thereof prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders a written reconciliation in form and substance reasonably satisfactory to the Administrative Agent, between calculations of such ratio or requirement made before and after giving effect to such change in GAAP or the application thereof. Notwithstanding anything in this Agreement to the contrary, any change in GAAP or the application or interpretation thereof that would require operating leases to be treated similarly as a capital lease shall not be given effect in the definitions of Indebtedness or Liens or any related definitions or in the computation of any financial ratio or requirement.

SECTION 1.04. Certifications, Etc. All certifications, notices, declarations, representations, warrants and statements made by any officer, director or employee or a Loan Party pursuant to or in connection with this Agreement shall be made in such Person's capacity as officer, director or employee on behalf of such Loan Party and not in such Person's individual capacity.

ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES

SECTION 2.01. The Advances.

(a) The Term B Advances.

(i) Each Term B Lender severally agrees, on the terms and conditions hereinafter set forth, to make a single advance (each, a "***Term B Advance***") to the Borrower on the Closing Date in an amount not to exceed such Lender's Term B Commitment at such time and $300,000,000 in the aggregate for all Term B Advances.

(ii) The Term B Borrowing shall consist of Term B Advances extended and made simultaneously by the Term B Lenders ratably according to their Term B Commitments. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be re-borrowed.

(b) The Working Capital Advances. Each Revolving Lender severally agrees, on the terms and conditions hereinafter set forth, to make advances (each a "***Working Capital Advance***") to the Borrower from time to time on any Business Day during the period

from the Closing Date until the Revolving Facility Maturity Date in an amount for each such Advance not to exceed such Lender's Unused Revolving Commitment at such time. Each such Revolving Borrowing shall be in an aggregate amount of $500,000 or an integral multiple of $250,000 in excess thereof (other than a Borrowing the proceeds of which shall be used solely to Cash Collateralize Letters of Credit) and shall consist of Working Capital Advances made simultaneously by the Revolving Lenders ratably according to their Revolving Commitments. Within the limits of each Revolving Lender's Unused Revolving Commitment in effect from time to time, the Borrower may borrow under this Section 2.01(b), prepay pursuant to Section 2.04(a) and re-borrow under this Section 2.01(b).

SECTION 2.02. Making the Advances.

(a) Except as provided in clause (b) below or Section 3.04, each Borrowing shall be made on irrevocable notice, given not later than 12:00 P.M. (New York City time) on (i) the third Business Day (or in the case of the initial Borrowing, the Business Day) prior to the date of the proposed Borrowing, in the case of a Borrowing consisting of Eurodollar Rate Advances, or (ii) the first Business Day prior to the date of the proposed Borrowing in the case of a Borrowing consisting of Base Rate Advances, by the Borrower to the Administrative Agent, which shall give to each Appropriate Lender prompt notice thereof by telecopier or electronic communication. Each such irrevocable notice of a Borrowing (a "***Funding Notice***") shall be by telephone, confirmed promptly in writing, including by telecopier or electronic communication, in substantially the form of Exhibit C, specifying therein the requested (i) date of such Borrowing, (ii) Facility under which such Borrowing is to be made, (iii) Type of Advances comprising such Borrowing, (iv) aggregate amount of such Borrowing and (v) in the case of a Borrowing consisting of Eurodollar Rate Advances, initial Interest Period for each such Advance. Each Appropriate Lender shall, before 12:00 P.M. (New York City time) on the date of such Borrowing, make available by wire transfer for the account of its Applicable Lending Office to the Administrative Agent at the Administrative Agent's Account, in same day funds, such Lender's ratable portion of such Borrowing, in accordance with the respective Commitments under the applicable Facility of such Lender and the other Appropriate Lenders. After the Administrative Agent's receipt of such funds and upon fulfillment or waiver of the applicable conditions set forth in Article V, the Administrative Agent will make such funds available to the Borrower by crediting the Longview Revenue Account or as otherwise directed by the Borrower in the Funding Notice.

(b) Unless the Administrative Agent shall have received notice from an Appropriate Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's ratable portion of such Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of such Borrowing in accordance with clause (a) above and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such ratable portion available to the Administrative Agent, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from such date of Borrowing until the date such amount is paid to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank

compensation. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent together with interest thereon, for each day from the date of such Borrowing until the date such amount is paid to the Administrative Agent, at the rate payable hereunder for Base Rate Advances under the relevant Facility.

(c) The failure of any Lender to make the Advance to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Advance on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Advance to be made by such other Lender on the date of any Borrowing. Nothing in this Section 2.02 shall prejudice any rights that the Borrower may have against a Defaulting Lender.

SECTION 2.03. Repayment of Advances.

(a) Term B Advances. The Borrower shall repay to the Administrative Agent for the ratable account of the Term B Lenders the outstanding principal amount of Term B Advances on the last Business Day of each calendar quarter prior to the Term B Facility Maturity Date (commencing with the calendar quarter ending September 30, 2015) in the amount of 0.25% of the total principal amount of Term B Advances originally outstanding on the Closing Date (which amounts, in each case, shall be reduced as a result of the application of prepayments in accordance with Section 2.04); *provided* that all outstanding Term B Advances shall be repaid on the Term B Facility Maturity Date.

(b) Working Capital Advances and L/C Advances. The Borrower shall repay to the Administrative Agent for the ratable account of the Revolving Lenders on the Revolving Facility Maturity Date the aggregate principal amount of any Working Capital Advances and any L/C Advances then outstanding.

SECTION 2.04. Prepayments.

(a) Optional; Call Protection.

(i) The Borrower may, upon at least one Business Day's written notice in the case of Base Rate Advances and three Business Days' written notice in the case of Eurodollar Rate Advances, in each case substantially in the form of Exhibit M to the Administrative Agent stating the proposed date and aggregate principal amount of the prepayment, and if such notice is given the Borrower shall, prepay the outstanding aggregate principal amount of the Advances composing part of the same Borrowing, in whole or ratably in part, together with accrued and unpaid interest to the date of such prepayment on the aggregate principal amount prepaid; *provided* that (1) each partial prepayment shall be in an aggregate principal amount of $500,000 or an integral multiple of $250,000 in excess thereof and (2) if any prepayment of a Eurodollar Rate Advance is made on a date other than the last day of an Interest Period for such Advance, the Borrower shall also pay any amounts owing pursuant to Section 11.02(g).

(ii) If the Borrower (A) makes a voluntary prepayment of all or any portion of the Term B Facility pursuant to Section 2.04(a)(i) in connection with a Repricing Transaction, (B) makes a mandatory prepayment of all or any portion of the Term B Facility pursuant to Section 2.04(b)(iii) in connection with a Repricing Transaction or (C) enters into any amendment, waiver or other modification of or under this Agreement which constitutes a Repricing Transaction, in each case, prior to the first anniversary of the Closing Date, the Borrower shall pay to the Administrative Agent, for the ratable account of the Lenders, a prepayment premium in an amount equal to 1.00% of the principal amount so prepaid (or in the cause of clause (C), a fee in an amount equal to 1.00% of the principal amount of the Term B Advances subject to such amendment, waiver or other modification).

(iii) Each voluntary or optional prepayment of the Term B Advances shall be applied as directed by the Borrower or, absent such direction, and subject to Section 4.08, ratably to the installments of each of the applicable Facilities on a *pro rata* basis in direct order of maturity. Considering each Facility being prepaid separately, any prepayment thereof shall be applied first to Base Rate Advances to the fullest extent thereof before any application to Eurodollar Rate Advances, in each case in a manner which minimizes the amount of any payments to be made by the Borrower pursuant to Section 11.02(g).

(iv) Notice required to be given under this clause (a) (A) must be given by 12:00 P.M. (New York City time) on the date required, and (B) may be given in writing or by telephone; *provided* that, if notice is given by telephone, it must be promptly confirmed in writing to the Administrative Agent (and the Administrative Agent will promptly transmit such telephonic or original notice by telecopier or telephone to each Appropriate Lender).

(b) Mandatory.

(i) The Borrower shall, on each June 30, commencing on June 30, 2016, as set forth in Section 3.1(c)(viii) of the Depositary Agreement (in each case without duplication), prepay the Term B Advances outstanding on such day in an aggregate amount equal to the Excess Cash Flow Percentage of Excess Cash Flow on such day.

(ii) (A) If within three Business Days of the date of receipt of any Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds by any of the Loan Parties in respect of which the Borrower shall not have delivered a Reinvestment Notice, then the Borrower shall (in each case without duplication and as contemplated by the priorities set forth in clause (b)(vi) below) (1) prepay an aggregate principal amount of the Advances composing part of the same Borrowings, (2) Cash Collateralize any Letters of Credit then outstanding in an amount equal to the Minimum Collateral Amount and (3) in connection with such prepayment and deposit, pay all breakage costs payable pursuant to Section 11.02(g) and any termination payments in respect of any Hedge Agreement due and payable as a result of any such prepayment and deposit, in an aggregate amount equal to the amount of such

Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds.

(B) If the Borrower shall have delivered a Reinvestment Notice in respect of any Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds and such Reinvestment Notice does not apply to all of such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds received by a Loan Party, then on the third Business Day following the delivery of such Reinvestment Notice, the Borrower shall (in each case without duplication and as contemplated by the priorities set forth in clause (b)(vi) below) (1) prepay an aggregate principal amount of the Advances comprising part of the same Borrowings, (2) Cash Collateralize any Letters of Credit then outstanding in an amount equal to the Minimum Collateral Amount and (3) in connection with such prepayment and deposit, pay all breakage costs payable pursuant to Section 11.02(g) and any termination payments in respect of any Hedge Agreement due and payable as a result of any such prepayment and deposit, in an aggregate amount equal to the amount of such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds which is not covered by such Reinvestment Notice.

(C) If the Borrower shall have delivered a Reinvestment Notice in respect of any Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds described in sub-clause (A) above, then (1) the Loan Parties shall be permitted to use such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds to make such Permitted Investment to the extent that such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds are applied or committed to be applied by a Loan Party to such Permitted Investment within 18 months of such Asset Sale, Casualty Event, Contract Termination Event or Event of Eminent Domain (and, if committed to be applied, shall be so applied within 180 days of such commitment), and (2) to the extent that the conditions set forth in sub-clause (1) above are not satisfied, the Borrower shall (in each case without duplication and as contemplated by the priorities set forth in clause (b)(vi) below), in the case such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds are received by any of the Loan Parties, within three Business Days of the failure to satisfy such conditions (x) prepay an aggregate principal amount of the Advances comprising part of the same Borrowings, (y) Cash Collateralize any Letters of Credit then outstanding in an amount equal to the Minimum Collateral Amount and (z) in connection with such prepayment and deposit, pay all breakage costs payable pursuant to Section 11.02(g) and any termination payments in respect of any Hedge Agreement due and payable as a result of any such prepayment and deposit, in an aggregate amount equal to the remaining amount (if any) of such Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds not otherwise applied pursuant to sub-clause (1) above.

(iii) The Borrower shall, within five Business Days of the receipt of any Debt Proceeds by any of the Loan Parties (in each case without duplication and as contemplated by the priorities set forth in clause (b)(vi) below), (A) prepay an aggregate principal amount of the Advances comprising part of the same Borrowings, (B) Cash Collateralize any Letters of Credit then outstanding in an amount equal to the Minimum Collateral Amount and (C) in connection with such prepayment and deposit, pay all breakage costs payable pursuant to Section 11.02(g) and any termination payments in respect of any Hedge Agreement due and payable as a result of any such prepayment and deposit, in an aggregate amount equal to such Debt Proceeds.

(iv) The Borrower shall, from time to time on a Business Day, prepay an aggregate principal amount of the Working Capital Advances comprising part of the same Borrowings, and the L/C Advances in an amount equal to the amount, if any, by which (A) the sum of the aggregate principal amount of (1) the Working Capital Advances then outstanding, (2) the L/C Advances then outstanding, and (3) the aggregate Available Amount of all Letters of Credit then outstanding exceeds (B) the amount of the Revolving Facility on such Business Day.

(v) Concurrently with each prepayment made pursuant to clauses (b)(i) through (b)(iii), the Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer demonstrating the calculation of the relevant amount. In the event that the Borrower shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, the Borrower shall promptly make an additional prepayment of the Advances and the Borrower shall concurrently therewith deliver to the Administrative Agent in the amount of such excess a certificate of a Responsible Officer demonstrating the derivation of such excess.

(vi) Each prepayment made pursuant to clauses (b)(i) through(b)(iv) shall be applied ratably *first*, to prepay the Term B Advances, to be applied initially in direct order of maturity to the remaining scheduled amortization payments and the payments due on the Term B Facility Maturity Date; *second*, to Cash Collateralize any Letters of Credit then outstanding in an amount equal to the Minimum Collateral Amount; *third*, to the prepayment of the Revolving Facility as set forth in clause (b)(vii) below; and *fourth*, any amount remaining (the "***Reduction Amount***") may be retained by the Borrower and the Revolving Facility shall be permanently reduced as set forth in Section 4.01(b); *provided* that the Borrower may use a portion of any proceeds required pursuant to clauses (b)(i) through (b)(iii) to prepay the Term B Advances to prepay or repurchase any other Debt (including, without limitation, any Incremental Term Facility) that is secured by all or any part of the Collateral on an equal and ratable basis with the Obligations to the extent such other Debt and the Liens securing the same are permitted hereunder and the documentation governing such other Debt requires such a prepayment or repurchase thereof with such proceeds, in each case in an amount not to exceed the product of (A) such proceeds and (B) a fraction, the numerator of which is the outstanding principal amount of such other Debt and the denominator of which is the aggregate outstanding principal amount of Term B Advances and such other Debt. Upon the drawing of any Letters of Credit in respect of which funds are on deposit in any

Controlled Account, such funds shall be applied to reimburse the Issuing Banks in an amount equal to such Drawing Payment.

(vii) Prepayments of the Revolving Facility made pursuant to this clause (b) shall be applied (A) first to prepay any Working Capital Advances and L/C Advances then outstanding and (B) second to Cash Collateralize any Letters of Credit issued and outstanding under the Revolving Facility (and the Revolving Facility shall be permanently reduced as set forth in Section 4.01(b)) until such amounts are paid in full.

(viii) All prepayments under this clause (b) shall be made together with (A) accrued and unpaid interest to the date of such prepayment on the principal amount prepaid and (B) any amounts owing pursuant to Section 11.02(g) and Section 2.04(a)(ii).

SECTION 2.05. Scheduled Interest.

(a) Except as otherwise set forth herein, each Type of Advance shall bear interest on the unpaid principal amount thereof from the date made through repayment (whether by acceleration or otherwise) thereof as follows:

(i) if a Base Rate Advance, at the Base Rate *plus* the Applicable Margin; or

(ii) if a Eurodollar Rate Advance, at the Adjusted Eurodollar Rate *plus* the Applicable Margin.

(b) The basis for determining the rate of interest with respect to any Advance, and the Interest Period with respect to any Eurodollar Rate Advance, shall be selected by the Borrower and notified to the Administrative Agent and the Appropriate Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be. If on any day an Advance is outstanding with respect to which a Funding Notice or Conversion/Continuation Notice has not been delivered to the Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Advance shall be a Base Rate Advance.

(c) In connection with Eurodollar Rate Advances there shall be no more than eight Interest Periods outstanding at any time. In the event the Borrower fails to specify between a Base Rate Advance or a Eurodollar Rate Advance in the applicable Funding Notice or Conversion/Continuation Notice, such Advance (if outstanding as a Eurodollar Rate Advance) will be automatically Converted into a Base Rate Advance on the last day of the then-current Interest Period for such Advance (or if outstanding as a Base Rate Advance will remain as, or (if not then outstanding) will be made as, a Base Rate Advance). In the event the Borrower fails to specify an Interest Period for any Eurodollar Rate Advance in the applicable Funding Notice or Conversion/Continuation Notice, the Borrower shall be deemed to have selected an Interest Period of one month. As soon as practicable after 10:00 A.M. (New York City time) on each Interest Rate Determination Date, the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Rate Advance for which an interest rate is then

being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrower and each Appropriate Lender.

(d) Except as otherwise set forth herein, interest on each Advance (i) shall accrue on a daily basis and shall be payable in arrears on each Interest Payment Date with respect to interest accrued on and to each such payment date; (ii) shall accrue on a daily basis and shall be payable in arrears upon any prepayment of that Advance, whether voluntary or mandatory, to the extent accrued on the amount being prepaid and (iii) shall accrue on a daily basis and shall be payable in arrears at maturity of the Advances, including final maturity of the Advances.

SECTION 2.06. Conversion/Continuation of Advances.

(a) Optional. The Borrower may on any Business Day, upon provision of an irrevocable Conversion/Continuation Notice by the Borrower (or irrevocable telephonic notice in lieu thereof, followed by the prompt delivery of a Conversion/Continuation Notice) to the Administrative Agent not later than 12:00 P.M. (New York City time) on (x) in the case of a Conversion to a Base Rate Advance, the Business Day prior to the date of the proposed Conversion and (y) in the case of a Conversion to, or a continuation of, a Eurodollar Rate Advance, the third Business Day prior to the date of the proposed Conversion or continuation, and subject to the provisions of Section 4.04, Convert all or any portion of the Advances of one Type composing the same Borrowing into Advances of the other Type, or, upon the expiration of any Interest Period applicable to any Eurodollar Rate Advance, to continue all or a portion of that amount as a Eurodollar Rate Advance; *provided* that (i) any Conversion of Eurodollar Rate Advances into Base Rate Advances shall be made only on the last day of an Interest Period for such Eurodollar Rate Advances unless the Borrower shall pay all amounts due under Section 11.02(g) in connection with any such Conversion, (ii) any Conversion of Base Rate Advances into Eurodollar Rate Advances shall be in an amount not less than $500,000 and integral multiples of $250,000 in excess of that amount, (iii) each Conversion or continuation of Advances comprising part of the same Borrowing under any Facility shall be made ratably among the Appropriate Lenders in accordance with their Commitments or Advances under such Facility and (iv) in the case of a Conversion of Base Rate Advances into Eurodollar Rate Advances or continuation of Eurodollar Rate Advances, no Event of Default shall have occurred and be continuing. Each Conversion/Continuation Notice shall be irrevocable and binding on the Borrower.

(b) Mandatory.

(i) On the date on which the aggregate unpaid principal amount of Eurodollar Rate Advances comprising any Borrowing shall be reduced, by payment or prepayment or otherwise, to less than $500,000, such Advances shall automatically Convert into a Base Rate Advance.

(ii) Upon the occurrence and during the continuance of any Event of Default, (x) each Eurodollar Rate Advance will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Advance and (y) the obligation

of the Lenders to make, or to Convert Advances into, Eurodollar Rate Advances shall be suspended.

SECTION 2.07. Promissory Notes.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Advance owing to such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder. The Borrower agrees that upon notice by any Lender to the Borrower (with a copy of such notice to the Administrative Agent) to the effect that a promissory note or other evidence of indebtedness is required or appropriate in order for such Lender to evidence (whether for purposes of pledge, enforcement or otherwise) the Advances owing to, or to be made by, such Lender, the Borrower shall promptly execute and deliver to such Lender, with a copy to the Administrative Agent, a Term B Note and a Revolving Note, as applicable, payable to such Lender in a principal amount equal to the Term B Advances, the Working Capital Advances and the L/C Advances, respectively, of such Lender. All references to Notes in the Loan Documents shall mean Notes, if any, to the extent issued hereunder.

(b) The Register maintained by the Administrative Agent pursuant to Section 11.06(c) shall include a control account, and a subsidiary account for each Lender, in which accounts (taken together) shall be recorded (i) the date and amount of each Borrowing made hereunder, the Type of Advances comprising such Borrowing and, if appropriate, the Interest Period applicable thereto, (ii) the terms of each Assignment and Assumption delivered to and accepted by it, (iii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iv) the amount of any sum received by the Administrative Agent from the Borrower hereunder and each Lender's share thereof.

(c) Entries made in good faith by the Administrative Agent in the Register pursuant to clause (b) above shall be conclusive evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower, under this Agreement, absent manifest error; *provided* that the failure of the Administrative Agent to make an entry, or any finding that an entry is incorrect, which, in either case, shall be promptly corrected, in the Register shall not limit or otherwise affect the obligations of the Borrower under this Agreement.

SECTION 2.08. Incremental Facilities.

(a) The Borrower may add one or more incremental term loan facilities to the Term B Facility (each, an "***Incremental Term Facility***") and/or increase commitments under the Revolving Facility on the same terms and pricing as the Revolving Facility (any such increase, an "***Incremental Revolving Increase***" and, together with any Incremental Term Facility, the "***Incremental Facilities***") in an aggregate principal amount not to exceed $100,000,000; *provided* that:

(i) no Lender will be required to participate in any such Incremental Facility,

(ii) no Event of Default or Default exists or would exist immediately after giving effect thereto,

(iii) the representations and warranties in the Loan Documents shall be true and correct in all material respects (and in all respects if qualified by materiality) immediately prior to, and after giving effect to, the incurrence of such Incremental Facility,

(iv) the maturity date and weighted average life to maturity of any such Incremental Term Facility shall be no earlier than the maturity date and weighted average life to maturity, respectively, of the Term B Facility,

(v) no Incremental Term Facility shall be secured by assets other than Collateral or guaranteed by persons other than the Guarantors,

(vi) a Ratings Reaffirmation shall have been received by the Administrative Agent,

(vii) the interest rates and mandatory amortization schedule applicable to any Incremental Term Facility shall be determined by the Borrower and the lenders thereunder on terms and pursuant to documentation to be mutually agreed; *provided*, *further*, that the all-in yield (whether in the form of interest rate margins, original issue discount ("***OID***") or upfront fees) applicable to any Incremental Term Facility will not be more than 0.50% higher than the corresponding all-in yield (giving effect to interest rate margins, OID, upfront fees, Adjusted Eurodollar Rate floor and Base Rate floor) for the existing Term B Facility unless the interest rate margins with respect to such existing Term B Facility is increased by an amount equal to the difference between the all-in yield with respect to the Incremental Term Facility and the corresponding all-in yield on such existing Term B Facility *minus* 0.50%; *provided*, *further*, that, in determining the all-in yield applicable to the Incremental Term Facility and the Term B Advances (x) customary arrangement, underwriting, amendment or commitment fees payable to the Joint Lead Arrangers (or their respective Affiliates) or to one or more arrangers (or their Affiliates) shall be excluded, (y) OID and upfront fees paid to the lenders shall be included (with OID and upfront fees being equated to interest based on assumed four-year life to maturity or, if shorter, the actual weighted average life to maturity), and (z) if an Incremental Term Facility includes an interest rate floor greater than the applicable interest rate floor under the existing Term B Facility, such differential between interest rate floors shall be equated to an increase in the applicable interest rate margin with respect to such Incremental Term Facility for purposes of determining whether an increase to the interest rate margin under the existing Term B Facility shall be required, but only to the extent an increase in the interest rate floor in the existing Term B Facility would cause an increase in the interest rate then in effect thereunder, and in such case the interest rate floor (but not the interest rate margin) applicable to the existing Term B Facility shall be increased to the extent of such differential between interest rate floors (all adjustments made pursuant to this clause (vii), the "***MFN Adjustments***"); *provided*, *further*, that (A) to the extent such terms and documentation are not identical to, in the case of an Incremental Term Facility, the Term B Facility (except to the extent permitted

by clause (iv) or (vii) above or only applicable after the current Term B Facility Maturity Date), they shall be reasonably satisfactory to the Administrative Agent and (B) any Incremental Term Facility shall be *pari passu* in right of payment and security and will share ratably in any voluntary or mandatory prepayments (other than scheduled amortization payments) of the Term B Facility unless the Borrower and the lenders in respect of such Incremental Term Facility elect lesser payments; and

(viii) to the extent reasonably determined by the Administrative Agent that such items are reasonably necessary to protect the first priority lien of the Mortgage and otherwise in Administrative Agent's reasonable discretion, the Administrative Agent shall have received (1) amendments to each Mortgage in favor of Collateral Agent existing on the date of funding of such Incremental Facility in a form reasonably acceptable to Administrative Agent, (2) endorsements to each Title Policy in form reasonably acceptable to Administrative Agent, (3) a Flood Certificate with respect to each Mortgaged Property, (4) favorable legal opinions relating to the amendments to the Mortgages in form and substance and from counsel reasonably satisfactory to Administrative Agent, and (5) such other documents as may be required in connection with the recording of such amendments to the Mortgages and the issuance of such endorsements.

(b) Each of the parties hereto hereby agrees that, notwithstanding anything to the contrary set forth in Section 11.05, this Agreement and the other Loan Documents may be amended pursuant to an amendment executed by the Loan Parties, the Administrative Agent and the lenders providing an Incremental Facility, without the consent of any other Lender, to the extent reasonably required to effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.08, and the Lenders hereby expressly and irrevocably, for the benefit of all parties hereto, authorize the Administrative Agent to enter into such amendment. In connection with any such amendment, the Borrower shall deliver to the Administrative Agent such customary documentation and opinions reasonably requested by the Administrative Agent, including such documents which are reasonably necessary or desirable to ensure the continued first priority liens and security interests in favor of the Collateral Agent for the benefit of the Secured Parties.

ARTICLE III

LETTERS OF CREDIT

SECTION 3.01. Letters of Credit.

(a) The Letters of Credit.

(i) Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, to issue (or cause its Affiliate that is an Acceptable Bank to issue on its behalf) standby letters of credit (each, a "***Working Capital Letter of Credit***") in Dollars for the account of the Borrower from time to time on any Business Day during the period from the Closing Date until five Business Days before the Revolving Facility Maturity Date in

an Available Amount for each such Working Capital Letter of Credit issued by such Issuing Bank not to exceed such Issuing Bank's Unused L/C Commitment at such time. Working Capital Letters of Credit issued hereunder shall constitute utilization of each of the aggregate Revolving Commitments and aggregate L/C Commitments, each in an amount equal to the Available Amount of such Working Capital Letter of Credit.

(ii) Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, to issue (or cause its Affiliate that is an Acceptable Bank to issue on its behalf) standby letters of credit, substantially in the form of Exhibit N-2 or otherwise on terms and conditions to be mutually agreed between the Issuing Bank and the Borrower (each, a "***DSRA Letter of Credit***") in Dollars for the account of the Borrower from time to time on any Business Day during the period from the Closing Date until five Business Days before the Revolving Facility Maturity Date in an Available Amount for each such DSRA Letter of Credit issued by such Issuing Bank not to exceed such Issuing Bank's Unused L/C Commitment at such time. DSRA Letters of Credit issued hereunder shall constitute utilization of each of the aggregate Revolving Commitments and aggregate L/C Commitments, each in an amount equal to the Available Amount of such DSRA Letter of Credit.

(iii) Immediately upon the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) by the relevant Issuing Bank and without any further action on the part of such Issuing Bank or Revolving Lenders, each Revolving Lender shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from such Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Revolving Lender's Pro Rata Share of the Available Amount under such Letter of Credit.

(b) Renewal and Termination of Letters of Credit. No Letter of Credit shall have an expiration date (including all rights of the Borrower or the beneficiary to require renewal) later than the fifth Business Day prior to the Revolving Facility Maturity Date and may by its terms be renewable annually unless the relevant Issuing Bank has notified the Borrower (with a copy to the Administrative Agent) on or prior to the date for notice of termination set forth in such Letter of Credit but in any event at least 30 Business Days (or such shorter period as the Issuing Bank may agree in its sole discretion) prior to the date of automatic renewal of its election not to renew such Letter of Credit (a "***Notice of Termination***"); *provided* that the terms of each Letter of Credit that is automatically renewable annually (i) may, at the Borrower's option, (A) require the relevant Issuing Bank to give the beneficiary named in such Letter of Credit notice of any Notice of Termination and (B) may, at the Borrower's option, permit such beneficiary, upon receipt of such notice, to draw under such Letter of Credit prior to the date such Letter of Credit otherwise would have been automatically renewed and (ii) shall not permit the expiration date (after giving effect to any renewal) of such Letter of Credit in any event to be extended to a date later than five Business Days before the Revolving Facility Maturity Date unless cash collateralized or backstopped pursuant to arrangements satisfactory to the relevant Issuing Bank and the relevant Issuing Bank has agreed to such extension in its sole discretion. If a Notice of Termination is given by any Issuing Bank pursuant to the immediately preceding sentence, such Letter of Credit shall expire on the date on which it otherwise would have been automatically renewed. Within the limits of the L/C Commitments and subject to the limits

referred to above, the Borrower may request the issuance of Letters of Credit under this Section 3.01.

SECTION 3.02. Request for Issuance. Each Letter of Credit shall be issued, extended, or have the Available Amount increased or decreased upon request, given not later than 12:00 P.M. (New York City time) on the fifth Business Day prior to the date of the proposed issuance of such Letter of Credit (or such earlier date as the Issuing Bank may agree in its sole discretion), by the Borrower to the Administrative Agent, which shall give to the relevant Issuing Bank prompt notice thereof by telecopier or electronic communication. Each such request for issuance, extension, increase or decrease of the Available Amount of a Letter of Credit shall be in substantially the form of Exhibit N-1 or otherwise acceptable to the Issuing Bank (an "***L/C Credit Extension Request***"), and if requested by the Issuing Bank, a Letter of Credit application in such Issuing Bank's standard form appropriately completed and signed by a Responsible Officer of the Borrower including agreed-upon draft language for such Letter of Credit reasonably acceptable to the applicable Issuing Bank ("***Letter of Credit Application***"). No Issuing Bank shall be required to issue a Letter of Credit prior to the satisfaction of all applicable Issuing Bank customary procedures of such Issuing Bank and, in the case of Working Capital Letters of Credit, until such time as such Issuing Bank and the Borrower have agreed on the form and substance of such Working Capital Letter of Credit; *provided* that no Issuing Bank shall unreasonably delay the issuance of any such Working Capital Letter of Credit or unreasonably reject any provisions required by the Borrower to be included in or omitted from such Working Capital Letter of Credit. Each Issuing Bank will, upon fulfillment or waiver of the applicable conditions set forth in Article V, make such Letter of Credit available to the Borrower at its office referred to in Section 11.01 or as otherwise agreed with the Borrower in connection with such issuance. Notwithstanding anything herein to the contrary, no Issuing Bank shall be under any obligation to issue any Letter of Credit if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any law applicable to such Issuing Bank or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or direct that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder), or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense (for which such Issuing Bank is not otherwise compensated hereunder). No Issuing Bank shall be under any obligation to amend or extend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment thereto.

SECTION 3.03. Letter of Credit Reports. Each Issuing Bank shall furnish to the Administrative Agent (with a copy to the Borrower) (a) within three Business Days following any issuance, amendment, drawing, extension or expiration of any Working Capital Letter of Credit, a written report summarizing any such event and (b) on the first Business Day of each month a written report summarizing issuance and expiration dates of Working Capital Letters of Credit issued by it under the Revolving Facility, during the preceding month and drawings during such month under all such Working Capital Letters of Credit.

SECTION 3.04. Drawings and Reimbursements.

(a) Upon receipt from the beneficiary of any Letter of Credit of any notice of drawing under such Letter of Credit, the relevant Issuing Bank that issued such Letter of Credit shall notify promptly the Borrower and the Administrative Agent thereof. Not later than 5:00 P.M. (New York City time) on the Business Day following the date of any payment by any Issuing Bank under a Letter of Credit, the Borrower shall reimburse such Issuing Bank in an amount equal to the amount of such drawing.

(b) In the event that the Borrower shall fail for any reason to reimburse the Issuing Bank as provided in clause (a) above, such Issuing Bank shall promptly notify the Administrative Agent of the unreimbursed amount of such Drawing Payment with respect to a Letter of Credit and of such Revolving Lender's respective participation therein. Each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Revolving Lender's Pro Rata Share of each such Drawing Payment on a Letter of Credit within one (1) Business Day after receiving notice (each such payment being an "***L/C Reimbursement***"). Each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(c) If and to the extent that such Revolving Lender shall fail to pay such L/C Reimbursement to the Administrative Agent at the time required by clause (b) above, such Issuing Bank shall be entitled to recover such amount on demand from such Revolving Lender, together with interest thereon, for each day from the date such L/C Reimbursement is due until the date such amount is paid to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Sections 4.05(d) and (h) shall apply, *mutatis mutandis*, to the payment obligations of the Lenders hereunder (including the obligation to pay interest to the Issuing Bank in respect of late payments by such Lender), and the Administrative Agent shall promptly pay to such Issuing Bank the amounts so received by it from the applicable Lenders.

(d) In the event an Issuing Bank shall have been reimbursed by the applicable Lenders pursuant to this Section 3.04 for all or any portion of any unreimbursed Drawing Payment, such Issuing Bank shall return to the Administrative Agent for distribution to each applicable Lender which has paid all amounts payable by it under this Section 3.04 such Lender's Pro Rata Share of all payments subsequently received by the Issuing Bank from Borrower in reimbursement of such applicable Drawing Payment when such payments are received.

(e) In the event that the Borrower fails to reimburse the relevant Issuing Bank in accordance with clause (a) above, such Drawing Payment shall be deemed to be financed on the date on which such Drawing Payment is made with a Revolving Borrowing (or a portion thereof) (any such Revolving Borrowing to reimburse drawings under any Letter of Credit, an "***L/C Advance***") that shall be made as a Base Rate Advance, bearing interest at the Base Rate plus the Applicable Margin then applicable for Base Rate Advances and the Borrower's obligation to reimburse such drawing shall be discharged and replaced by the resulting L/C Advance.

SECTION 3.05. Obligations Absolute. The Obligations of the Borrower under this Agreement and any other agreement or instrument relating to any Letter of Credit shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement and such other agreement or instrument under all circumstances, including the following:

(a) any lack of validity or enforceability of any Loan Document, any Letter of Credit or any other agreement or instrument relating thereto (all of the foregoing being, collectively, the "***L/C Related Documents***");

(b) any change in time, manner or place of payment of, or in any other term of, all or any of the Obligations of the Borrower in respect of any L/C Related Document or any other amendment or waiver of or any consent to departure from all or any of the L/C Related Documents;

(c) the existence of any claim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for which any such beneficiary or any such transferee may be acting), any Issuing Bank or any other Person, whether in connection with the transactions contemplated by the L/C Related Documents or any unrelated transaction;

(d) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(e) payment by any Issuing Bank under a Letter of Credit against presentation of a draft, certificate or other document that does not strictly comply with the terms of such Letter of Credit;

(f) any exchange, release or non-perfection of any Collateral or other collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of the Borrower in respect of the L/C Related Documents; or

(g) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or a guarantor.

The Administrative Agent, each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, no Issuing Bank shall have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the Agents, the Lenders, any Issuing Bank or any of their Affiliates and their respective officers, directors, trustees, employees, agents or attorneys-in-fact shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-

appealable judgment; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude the Borrower pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Agents, the Lenders, any Issuing Bank or any of their Affiliates and their respective officers, directors, trustees, employees, agents or attorneys-in-fact, shall be liable or responsible for any of the matters described in clauses (a) through (g) above; *provided* that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against any Issuing Bank, and any Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Loan Parties which were caused by such Issuing Bank's willful misconduct or gross negligence or such Issuing Bank's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit, in each case as determined by a court of competent jurisdiction by final and non-appealable judgment. In furtherance and not in limitation of the foregoing, each Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

SECTION 3.06. L/C Facility Fees.

(a) Upon the issuance of any Letter of Credit, on each Interest Payment Date occurring on or after the date thereof, the Borrower shall pay (i) to each Issuing Bank for its own account a fronting fee in arrears with respect to each Letter of Credit issued by such Issuing Bank which shall accrue on a daily basis at a rate per annum equal to the product of (A) an amount to be mutually agreed between the Issuing Bank and the Borrower times (B) the daily average Available Amount of such Letter of Credit during such quarter (or portion thereof), including the first day, but excluding the last day of such quarter (or a portion thereof), times (C) a fraction, the numerator of which is the number of days in such quarter (or a portion thereof), including the first day of such period, but excluding the last day of such period, and the denominator of which is 360; and (ii) to the Administrative Agent (for further credit to the ratable account of the Revolving Lenders) a participation fee in arrears which shall accrue on a daily basis at a rate per annum equal to the product of (A) the Applicable Margin with respect to Eurodollar Rate Advances times (B) the daily average Available Amount of such Letter of Credit during such quarter (or portion thereof), including the first day, but excluding the last day of such quarter (or a portion thereof), times (C) a fraction, the numerator of which is the number of days in such quarter (or a portion thereof), including the first day of such period, but excluding the last day of such period, and the denominator of which is 360.

(b) The Borrower shall pay each Issuing Bank's reasonable and documented out-of-pocket expenses (limited in the case of legal fees to the reasonable and documented out-of-pocket fees and disbursements of one firm of counsel, plus (if applicable) one local counsel in each appropriate U.S. jurisdiction) with respect to the issuance, amendment, renewal or

extension of, or the processing of drawings under, any Letter of Credit issued by such Issuing Bank within thirty (30) days after demand by the applicable Issuing Bank.

SECTION 3.07. Replacement or Addition of an Issuing Bank.

(a) Any Issuing Bank may be replaced in whole or in part, and any new Issuing Bank may be added, in each case by an additional Acceptable Bank appointed as an Issuing Bank, and any new Issuing Bank may be added, in each case at any time by written agreement among the Borrower, such additional or new Issuing Bank and the Administrative Agent (with notice to such replaced Issuing Bank); *provided* that, if the replaced Issuing Bank so requests, any Letter of Credit issued by such Issuing Bank shall be replaced and cancelled prior to the removal of such Issuing Bank and all fees and other amounts owed to such removed Issuing Bank shall be paid to it.

(b) If at any time such Issuing Bank is a Defaulting Lender, then the Borrower may, upon 10 Business Days' prior written notice to such Issuing Bank and the Administrative Agent, elect to (i) replace such Issuing Bank with a Person selected by the Borrower so long as such Person is an Eligible Assignee and is reasonably satisfactory to the Administrative Agent or (ii) cause such Issuing Bank to assign its L/C Commitment to an additional Issuing Bank selected by the Borrower so long as such Person is an Eligible Assignee and is reasonably satisfactory to the Administrative Agent. Each replacement or assignment pursuant to this clause(b) shall be done in accordance with Section 11.06. To the extent that any Issuing Bank that is a Defaulting Lender has issued any Letters of Credit hereunder, and such Letters of Credit have not been returned for cancellation to such Issuing Bank that is a Defaulting Lender, such Issuing Bank that is a Defaulting Lender shall remain an Issuing Bank for all purposes hereunder in respect of such Letters of Credit.

(c) From and after the effective date of any such replacement or addition, (i) the successor or additional Issuing Bank shall have all the rights and obligations of the Issuing Banks under this Agreement (and the Letter of Credit to be issued by it on such effective date or thereafter) and (ii) references herein to the term "*Issuing Bank*" shall be deemed to refer to such successor, additional Issuing Bank or to any previous Issuing Bank, or to such successor, additional Issuing Bank and all previous Issuing Banks, as the context may require.

ARTICLE IV

COMMON PROVISIONS TO FACILITIES

SECTION 4.01. Termination or Reduction of the Commitments.

(a) Optional. The Borrower may, upon at least three Business Days' prior written or telephonic notice (confirmed in writing) to the Administrative Agent terminate in whole or reduce in part the unused portions of the Term B Commitments and the Unused Revolving Commitments; *provided* that any partial reduction of a Facility (i) shall be in an aggregate amount of $500,000 or an integral multiple of $250,000 in excess thereof, and (ii) shall be made ratably among the Appropriate Lenders in accordance with their Commitments with respect to such Facility. The Borrower's notice to the Administrative Agent shall designate the

date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the relevant Commitments shall be effective on the date specified in the Borrower's notice and shall reduce the relevant Commitments of the Appropriate Lenders proportionately in accordance with each such Appropriate Lender's Pro Rata Share thereof; provided that a notice of termination or reduction delivered by the Borrower may state that such notice is conditioned upon the consummation of an acquisition or sale transaction or upon the effectiveness of other credit facilities or the receipt of proceeds from the issuance of other Debt or any other specified event, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(b) Mandatory Reductions. At such time as the Term B Advances have been repaid in full, the Revolving Facility shall be automatically and permanently reduced, on a *pro rata* basis, on each date on which prepayment thereof is required to be made pursuant to Sections 2.04(b)(i) through (iii) in an amount equal to the applicable Reduction Amount; *provided* that each such reduction of the Revolving Facility shall be made ratably among the Revolving Lenders in accordance with their Revolving Commitments. Prior to the repayment in full of the Term B Advances, no reduction shall be required in respect of the Revolving Facility as a result of any prepayment pursuant to Section 2.04(b).

SECTION 4.02. Default Interest. Upon the occurrence and during the continuance of an Event of Default under Section 8.01(a), the Borrower shall pay interest on overdue amounts (a) payable on demand at a rate that is 2% *per annum* in excess of the interest rate otherwise payable under this Agreement with respect to the applicable Advances; *provided* that in the case of any Eurodollar Rate Advances, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such Eurodollar Rate Advances shall thereupon become Base Rate Advances and shall thereafter bear interest payable upon demand at a rate which is 2% *per annum* above the interest rate otherwise payable hereunder for Base Rate Advances and (b) to the fullest extent permitted by applicable law, the amount of any overdue interest, fee or other overdue amount payable under this Agreement or any other Loan Document to any Agent or any Lender Party that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate *per annum* equal at all times to 2% *per annum* above the rate *per annum* required to be paid on Base Rate Advances. Payment or acceptance of the increased rates of interest provided for in this Section 4.02 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent or any Lender.

SECTION 4.03. Fees.

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of the Revolving Lenders, a commitment fee until the Revolving Facility Maturity Date, payable quarterly in arrears on each Interest Payment Date occurring after the Closing Date, and the Revolving Facility Maturity Date at the rate of 0.50% *per annum* on the sum of the average daily Unused Revolving Commitment during such quarter; *provided* that any commitment fee accrued with respect to any of the Commitments of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time

shall not be payable by the Borrower so long as such Lender shall be a Defaulting Lender except to the extent that such commitment fee shall otherwise have been due and payable by the Borrower prior to such time; *provided further* that no commitment fee shall accrue on any of the Commitments of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. Promptly upon receipt of any commitment fee payable under this clause (a), the Administrative Agent shall promptly distribute to each Revolving Lenders its Pro Rata Share thereof.

(b) Agents' Fees. The Borrower shall pay to each Agent for its own account such fees as may from time to time be separately agreed between the Borrower and such Agent.

SECTION 4.04. Change of Circumstances.

(a) Inability to Determine Rates. If, on or before the first day of any Interest Period for any Advances, (i) Administrative Agent determines that the Adjusted Eurodollar Rate for such Interest Period cannot be adequately and reasonably determined due to the unavailability of funds in or other circumstances affecting the London interbank market, or (ii) Appropriate Lenders holding at least 33-1/3% of the aggregate principal amount of the then outstanding Advances shall advise Administrative Agent that (A) the rates of interest for such Advances do not adequately and fairly reflect the cost to such Lenders of making or maintaining such Advances or (B) deposits in Dollars in the London interbank market are not available to such Lenders (as conclusively certified by each such Lender in good faith in writing to Administrative Agent and to the Borrower) in the ordinary course of business in sufficient amounts to make and/or maintain their Eurodollar Rate Advances, then Administrative Agent shall immediately give notice of such condition to the Borrower. After the giving of any such notice and until Administrative Agent shall otherwise notify the Borrower that the circumstances giving rise to such condition no longer exist (which notice shall be given promptly after such circumstances cease to exist), (x) with respect to notices given under clause (i) above, Borrower's right to request the making of, and the Lenders' obligations to make or continue Eurodollar Rate Advances, shall be suspended and (y) with respect to notices given under clause (ii) above, Borrower's right to request the making of, and the obligation of the Lenders advising Administrative Agent under clause (ii) (the "***Affected Lenders***"), to make or continue Eurodollar Rate Advances, shall be suspended and all Advances made or continued after the giving of such notice shall be made or continued as Substitute Advances. With respect to notices given under clause (i) above, any Advances outstanding at the commencement of any such suspension and with respect to notices given under clause (ii) above, any Advances of Affected Lenders outstanding at the commencement of such suspension shall, in each case, be converted at the end of the then current Interest Period for such Advances into, at the Borrower's option, either Base Rate Advances or Substitute Advances unless Administrative Agent has notified Borrower in writing that such suspension has then ended.

(b) Illegality. Notwithstanding any other provision of this Agreement, if any Change in Law after the Closing Date shall make it unlawful, or any central bank or other Governmental Authority shall assert that it is unlawful, for any Lender or its Eurodollar Lending Office to perform its obligations hereunder to make Eurodollar Rate Advances or to continue to fund or maintain Eurodollar Rate Advances hereunder, then, on notice thereof and demand therefor by such Lender to the Borrower through the Administrative Agent, (i) each Eurodollar Rate Advance under each Facility under which such Lender has a Commitment will

automatically, upon such demand, Convert into a Base Rate Advance, and (ii) the obligation of the Lenders to make, or to Convert Advances into, Eurodollar Rate Advances shall be suspended until the Administrative Agent shall notify the Borrower that such Lender has determined that the circumstances causing such suspension no longer exist; *provided* that, before making any such demand, such Lender agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different Eurodollar Lending Office if the making of such a designation would allow such Lender or its Eurodollar Lending Office to continue to perform its obligations to make Eurodollar Rate Advances, to continue to fund or maintain Eurodollar Rate Advances, and would not, in the judgment of such Lender, be otherwise disadvantageous to such Lender.

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

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Eurodollar Rate) or any Issuing Bank;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of "Excluded Taxes" and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Advances made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Advance or of maintaining its obligation to make any such Advance, or to increase the cost to such Lender, such Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, Issuing Bank or other Recipient, the Borrower will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs incurred or reduction suffered; *provided* that (A) the Borrower shall not be responsible for costs under this clause (c) or clause (d) below if such costs were incurred more than 180 days prior to receipt by the Borrower of the demand from the affected Lender, Issuing Bank or other Recipient, as the case may be, pursuant to this clause (c) or clause (d) below, unless the requirement resulting in such increased costs became effective during such 180-day period and retroactively applies to a date occurring prior to such 180-day period, in which case the Borrower shall be responsible for all such additional amounts described in this clause (c) or clause (d) below from and after such

date of effectiveness and (B) a Lender, Issuing Bank or other Recipient, as the case may be, claiming additional amounts under this Section 4.04 agrees to use commercially reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different Applicable Lending Office if the making of such a designation would avoid the need for, or reduce the amount of, such increased cost that may thereafter accrue and would not, in the reasonable judgment of such Lender, Issuing Bank or other Recipient, as the case may be, be otherwise disadvantageous to such Lender, Issuing Bank or other Recipient, as the case may be. A certificate as to the amount of such increased cost, submitted to the Borrower by such Lender, Issuing Bank or other Recipient, as the case may be, shall be conclusive and binding for all purposes, absent manifest error.

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

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

(f) Delay in Requests. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section 4.04 shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; ***provided*** that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section 4.04 for any increased costs incurred or reductions suffered more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 4.05. Payments and Computations.

(a) The Borrower shall make each payment hereunder and under the other Loan Documents, irrespective of any right of counterclaim or set-off, not later than 12:00 P.M. (New York City time) on the day when due in Dollars to the Administrative Agent at the Administrative Agent's Account in same day funds, with payments being received by the Administrative Agent after such time being deemed to have been received on the next succeeding Business Day unless the Administrative Agent otherwise elects in its sole discretion. The Administrative Agent will promptly thereafter cause like funds to be distributed (i) if such payment by the Borrower is in respect of principal, interest, commitment fees or any other Obligation then payable hereunder and under the other Loan Documents to more than one Lender Party, to such Lender Parties for the account of their respective Applicable Lending Offices ratably in accordance with the amounts of such respective Obligations then payable to such Lender Parties and (ii) if such payment by the Borrower is in respect of any Obligation then payable hereunder to one Lender Party, to such Lender Party for the account of its Applicable Lending Office, in each case to be applied in accordance with the terms of this Agreement. Upon its acceptance of an Assignment and Assumption and recording of the information contained therein in the Register pursuant to Section 11.06(c), from and after the effective date of such Assignment and Assumption, the Administrative Agent shall make all payments hereunder and under the other Loan Documents in respect of the interest assigned thereby to the assignee thereunder, and the parties to such Assignment and Assumption shall make all appropriate adjustments in such payments for periods prior to such effective date directly between themselves.

(b) The Borrower hereby authorizes each Lender Party and each of its Affiliates, if and to the extent payment owed to such Lender Party is not made when due hereunder or under the other Loan Documents to charge from time to time, to the fullest extent permitted by law, against any or all of the Borrower's accounts with such Lender Party or such Affiliate any amount so due.

(c) All payments in respect of the principal amount of any Advance (other than voluntary prepayments of Working Capital Advances) shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Advance on a date when interest is due and payable with respect to such Advance) shall be applied to the payment of interest then due and payable before application to principal.

(d) All computations of interest for Base Rate Advances when the Base Rate is determined by the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees, interest and commissions shall be made on the basis of a 360 day year and actual days elapsed (including the first day but excluding the last day; *provided* that, if an Advance is repaid on the same day on which it is made, one day's interest shall be paid on such Advance). Each determination by the Administrative Agent of an interest rate, fee or commission hereunder shall be conclusive and binding for all purposes, absent manifest error.

(e) Whenever any payment hereunder or under the other Loan Documents shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the

computation of payment of interest, commitment or letter of credit fee or commission, as the case may be; *provided* that, if such extension would cause payment of interest on or principal of Eurodollar Rate Advances to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to any Lender Party hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower have made such payment in full to the Administrative Agent on such date and the Administrative Agent may, in reliance upon such assumption, cause to be distributed to each such Lender Party on such due date an amount equal to the amount then due such Lender Party. If and to the extent the Borrower shall not have so made such payment in full to the Administrative Agent, each such Lender Party shall repay to the Administrative Agent forthwith on demand such amount distributed to such Lender Party together with interest thereon, for each day from the date such amount is distributed to such Lender Party until the date such Lender Party repays such amount to the Administrative Agent, at the Federal Funds Effective Rate.

(g) If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the Advances or the Facility to which, or the manner in which, such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lender Parties in accordance with such Lender Party's Pro Rata Share of the sum of (i) the aggregate principal amount of all Advances outstanding at such time and (ii) the aggregate Available Amount of all Letters of Credit outstanding at such time, in repayment or prepayment of such of the outstanding Advances or other Obligations then owing to such Lender Party, and, in the case of the Term B Facility, for application to such principal repayment installments thereof, as the Administrative Agent shall direct.

(h) The Administrative Agent shall deem any payment by or on behalf of the Borrower under this Agreement that is not made in same day funds prior to 12:00 P.M. (New York City time) to be a non-conforming payment. Any such payment shall not be deemed to have been received by the Administrative Agent until the later of (i) the time such funds become available funds and (ii) the applicable next Business Day. The Administrative Agent shall give prompt telephonic notice to the Borrower and each Appropriate Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 8.01(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 4.02 from the date such amount was due and payable until the date such amount is paid in full.

SECTION 4.06. Taxes.

(a) Defined Terms. For purposes of this Section 4.06, the term "Lender" includes any Issuing Bank.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 4.06) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Borrower. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower. Without duplication of any obligation under Section 4.06(b), the Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.06) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 4.06, such Loan

Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 4.06(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

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

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

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

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit K-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Internal Revenue Code (a "***U.S. Tax Compliance Certificate***") and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E; or

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

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

(D) the Administrative Agent shall deliver to the Borrower two properly completed and duly signed copies of IRS Form W-9, certifying that the Administrative Agent is exempt from U.S. federal backup withholding;

(E) if a payment made to a Lender or the Administrative Agent under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender or the Administrative Agent were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender or the Administrative Agent, as applicable, shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the

Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender or the Administrative Agent, as applicable, has complied with such Lender's or the Administrative Agent's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

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

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.06 (including by the payment of additional amounts pursuant to this Section 4.06), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 4.06 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph (h) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival. Each party's obligations under this Section 4.06 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document; *provided* that no Loan Party shall be required to compensate any Recipient pursuant to this Section 4.06 for any interest or penalties incurred more than 180 days prior to receipt by the applicable Loan Party of the demand from the Recipient pursuant to paragraph (c) or paragraph (d) above, unless the requirement resulting in such interest or penalties became effective during such 180-day period and retroactively applies to a date occurring prior to such 180-day period.

SECTION 4.07. Sharing of Payments, Etc. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Advances or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Advances and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Advances and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Advances and other amounts owing them; *provided* that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including (A) the application of funds arising from the existence of a Defaulting Lender, (B) pursuant to Section 4.08(b)(y), (C) to Non-Extending Lenders pursuant to Section 4.10), or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances or participations in L/C Advances to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

SECTION 4.08. Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 4.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 4.06, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Advances hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 4.04 or 4.06, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 4.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts

to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 4.06 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 4.08(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, (x) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Section 4.04 or Section 4.06) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment) or (y) repay to such Lender on a non pro rata basis (using (1) equity issuances by Holdings or (2) Cash equity contributions that have been contributed to the Loan Parties, directly or indirectly, specifically for such purpose) an amount equal to the outstanding principal of such Lender's Advances, accrued interest thereon, accrued fees and all other amounts payable to such Lender hereunder and under the other Loan Documents; *provided* that in case of clause (x) above:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 11.02(g) and, in the case of such Lender being a Non-Consenting Lender in a Repricing Transaction consummated prior to the first anniversary of the Closing Date, a prepayment premium of 1.00% of the outstanding principal amount of Term B Advances of such Lender) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 4.04 or payments required to be made pursuant to Section 4.06, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Any Lender being replaced pursuant to Section 4.08(b)(x) above shall execute and deliver an Assignment and Assumption (provided that the failure of any such Lender to execute an

Assignment and Assumption shall not render such assignment invalid and such assignment shall be recorded in the Register).

SECTION 4.09. Use of Proceeds.

(a) The proceeds of the Term B Advances shall be available (and the Borrower agrees that it shall use such proceeds) solely (i) to repay extensions of credit under its existing debtor-in-possession financing facility in an aggregate amount equal to $[●], (ii) to repay the Dunkard Creek Lender Claims (as defined in the Plan of Reorganization) in an aggregate amount equal to $[●], (iii) to fund the 2015 Outage Account (as defined below) in an aggregate amount equal to $[●], (iv) to provide up to $25,000,000 in the aggregate as cash collateral for Cash Collateralized Revolving LCs issued under one or more Cash Collateralized LC Facility Agreements, (v) to the extent not funded with a letter of credit, to fund the Debt Service Reserve Account, (vi) to pay administrative costs and expenses associated with the foregoing, (vii) to make a distribution on the Closing Date to the parent companies of Holdings in an amount equal to $[50,000,000] and (viii) for the general corporate purposes of the Loan Parties.

(b) On the Closing Date, the proceeds of the Working Capital Advances shall be available (and the Borrower agrees that it shall use such proceeds) solely (i) to fund original issue discount, (ii) to issue Letters of Credit and (iii) to pay transaction expenses.

(c) After the Closing Date, the proceeds of the Working Capital Advances shall be available (and the Borrower agrees that it shall use such proceeds) solely (i) to fund a portion of the working capital requirements of the Loan Parties and provide security in the form of Working Capital Letters of Credit to support the working capital needs and obligations of the Loan Parties and (ii) for other general corporate purposes of the Loan Parties. The proceeds of the L/C Advances shall be available solely to reimburse draws under Letters of Credit as contemplated by Section 3.04(c).

(d) DSRA Letters of Credit shall be available to provide credit support in respect of the Debt Service Reserve Requirement of the Borrower under this Agreement.

SECTION 4.10. Extensions of Commitments. The Borrower may, by written notice to the Administrative Agent, request that Revolving Commitments and/or L/C Commitments and/or Advances under any Facility be extended to a date beyond the then existing Revolving Facility Maturity Date or Term B Facility Maturity Date, as applicable. Upon the receipt of such request by the Administrative Agent, the Administrative Agent shall deliver a copy thereof to each Appropriate Lender. Such notice shall set forth the newly proposed Revolving Facility Maturity Date and/or Term B Facility Maturity Date and the date on which such extension is requested to become effective (which shall be not less than 15 Business Days (or such shorter period as the Administrative Agent may agree) and which, in any event, must be on or prior to the then existing Revolving Facility Maturity Date and/or Term B Facility Maturity Date, as applicable), and shall offer each such Appropriate Lender the opportunity to extend its Revolving Commitment and/or L/C Commitment and/or Advances under such Facility. Each such Appropriate Lender shall, by notice to the Borrower and the Administrative Agent given not more than 15 days (or such shorter period as the Administrative Agent may agree) after the date

of the Administrative Agent's notice, either agree to extend its Revolving Commitment and/or L/C Commitment and/or Advances under such Facility (each such Lender so agreeing being an "***Extending Lender***") or decline to extend its Revolving Commitment and/or L/C Commitment and/or Advances under such Facility (and any such Lender that does not deliver such a notice within such period of 15 days (or such shorter period) shall be deemed to have declined to extend its Revolving Commitment and/or L/C Commitment and/or Advances under such Facility) (each such Lender so declining or being deemed to have declined being a "***Non-Extending Lender***"). In the event that, on the 15th day after the Administrative Agent shall have delivered a notice pursuant to the second sentence of this clause (a), the Extending Lenders shall have agreed pursuant to the preceding sentence to extend their Revolving Commitments and/or L/C Commitments and/or Advances under such Facility by an aggregate amount less than the amount requested by the Borrower to be extended, the Borrower may arrange for one or more banks or other entities (any such bank or other entity being called an "***Augmenting Extending Lender***"), which may include any Lender, to provide Revolving Commitments and/or L/C Commitments and/or Advances in an aggregate amount equal to the unsubscribed amount; *provided* that each Augmenting Extending Lender shall be subject to the prior written approval of the Administrative Agent and any affected Issuing Bank to the extent that such Augmenting Extending Lender proposes to provide a revolving facility that includes letters of credit (which approval shall not be unreasonably withheld or delayed), and the Borrower and each Augmenting Extending Lender shall execute all such documentation as the Administrative Agent shall reasonably specify to evidence its Revolving Commitment and/or L/C Commitment and/or Advances and/or its status as a Lender hereunder. Any such extension may be made in an amount that is less than the amount requested by the Borrower to be extended if the Borrower is unable to arrange for, or chooses not to arrange for, Augmenting Extending Lenders but in no event shall any such extension be made in an amount that exceeds the Revolving Commitments and/or L/C Commitments and/or Advances under the relevant Facility.

(a) Notwithstanding the foregoing, no extension or replacement of the Revolving Commitments and/or L/C Commitments and/or Advances shall become effective under this Section 4.10 unless (i) the Borrower shall have paid in full any fees and expenses in respect of any such extension that are then due and payable and (ii) any other conditions agreed to by the Borrower and the Extending Lenders are satisfied.

(b) Each of the parties hereto hereby agrees that, notwithstanding anything to the contrary set forth in Section 11.05, this Agreement and the other Loan Documents may be amended pursuant to an amendment executed by the Loan Parties, the Administrative Agent and the Extending Lenders, without the consent of any Non-Extending Lender, to the extent reasonably required to (i) reflect the existence and terms of the extended Revolving Commitments and/or L/C Commitments and/or Advances and (ii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 4.10, and the Lenders hereby expressly and irrevocably, for the benefit of all parties hereto, authorize the Administrative Agent to enter into such amendment. In connection with any such amendment, the Borrower shall, upon request, deliver an opinion of counsel reasonably acceptable to the Administrative Agent (i) as to the enforceability of this Agreement (as amended), and such of the other Loan Documents (if any) as may be amended thereby and (ii) as to any other customary matters reasonably requested by the Administrative Agent.

SECTION 4.11. Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.04 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank hereunder; *third*, to Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 11.03; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Advance in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a Deposit Account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Advances under this Agreement and (y) Cash Collateralize the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 11.03; *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the Issuing Banks against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Advances or L/C Advances in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Advances or L/C Advances were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 5.02 were satisfied or waived, such payment shall be applied solely to pay the Advances and L/C Advances of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Advances of such Defaulting Lender until such time as all Advances and L/C Advances and funded and unfunded participations in L/C Commitments are held by the Lenders pro rata in accordance with the Commitments under the applicable Facility without giving

effect to Section 4.11(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 4.11(a) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. (A) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 4.03 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive fees pursuant to Section 3.06 for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the Available Amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 11.03.

(C) With respect to any fees pursuant to Section 3.06 not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Revolving Commitments and L/C Advances that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Commitments and L/C Advances shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 5.02 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate L/C Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize the Issuing Banks' Fronting Exposure in accordance with the procedures set forth in Section 11.03,

provided that (A) the Borrower shall have no obligation to Cash Collateralize an Issuing Bank's Fronting Exposure if the Defaulting Lender is such Issuing Bank or an Affiliate thereof and (B) the Borrower shall have 60 days from receipt of written notice by the Administrative Agent that the reallocation described in clause (iv) above cannot, or can only partially, be effected, to cash collateralize the Issuing Banks' Fronting Exposure in accordance with this clause (v), so long as no Event of Default shall have occurred and be continuing during such period.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and Issuing Banks agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Advances of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Advances and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with the Commitments under the applicable Facility (without giving effect to Section 4.11(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; ***provided*** that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE V

CONDITIONS TO EFFECTIVENESS OF LENDING AND ISSUANCES OF LETTERS OF CREDIT

SECTION 5.01. Conditions Precedent to Initial Funding. Each of the occurrence of the Closing Date and the obligation of each applicable Lender Party to make a Credit Extension on the Closing Date is subject to the satisfaction (or waiver in accordance with Section 11.05) of the following conditions precedent before or concurrently with the Closing Date:

(a) The Administrative Agent shall have received on or before the Closing Date the following, each dated as of the Closing Date (unless otherwise specified), in form and substance reasonably satisfactory to the Administrative Agent (unless otherwise specified):

(i) one or more Notes payable to the applicable Lender to the extent requested by such Lender pursuant to the terms of Section 2.07;

(ii) each other Loan Document (to the extent not delivered pursuant to sub-clause (i) above), duly executed by the Persons party thereto;

(iii) certified copies of the resolutions or authorizations of the board of directors or members, as applicable, of each Loan Party approving each Loan Document to which it is or is to be a party, and of all documents evidencing other necessary

corporate or limited liability company action, as applicable, of each such Person, if any, with respect to each Loan Document to which it is or is to be a party;

(iv) a copy of a certificate of the Secretary of State of the jurisdiction of formation of each Loan Party, dated reasonably near the Closing Date certifying (A) as to a true and correct copy of the Organizational Documents of such Person and each amendment thereto on file in such Secretary of State's office and (B) that (1) such amendments are the only amendments to such Person's Organizational Documents on file in such Secretary of State's office and (2) such Person is duly incorporated or formed, as applicable, and in good standing or presently subsisting under the laws of the State of its jurisdiction of formation or incorporation;

(v) copies of the Organizational Documents of each Loan Party as in effect on the date on which the resolutions referred to in sub-clause (iii) were adopted and on the Closing Date;

(vi) a certificate of the Secretary or an Assistant Secretary of each Loan Party certifying the names and true signatures of the officers or other authorized representatives of such Person authorized to sign each Loan Document to which it is or is to be a party and the other documents to be delivered hereunder and thereunder;

(vii) a Solvency Certificate in substantially the form of Exhibit E (the "***Solvency Certificate***"), attesting to the Solvency of the Loan Parties, on a Consolidated basis, after giving effect to the Transaction, signed by a Financial Officer of the Borrower;

(viii) a copy of the following:

(A) (I) the audited annual financial statements dated as of December 31, 2013 of the Loan Parties, (II) the unaudited quarterly financial statements of the Loan Parties for the periods ending March 13, 2014, June 30, 2014 and September 30, 2014;

(B) an annual operating budget in respect of the Project and the Business for the remaining portion of calendar year 2015 (the "***Initial Operating Budget***"); and

(C) updated forecasts of the financial performance of the Loan Parties (prepared after giving effect to the Transactions and which shall be satisfactory, in form and substance, to the Joint Lead Arrangers) (x) on an annual basis, through the sixth anniversary of the Closing Date and (y) on a quarterly basis, through the sixth anniversary of the Closing Date (the "***Base Case Projections***");

(ix) favorable written opinions of (A) Kirkland & Ellis LLP, special New York counsel to the Loan Parties, (B) Sutherland Asbill & Brennan LLP, regulatory counsel to the Loan Parties, (C) Babst Calland Clements and Zomnir, P.C., West Virginia counsel to the Loan Parties, (D) Babst Calland Clements and Zomnir, P.C., Pennsylvania

counsel to the Loan Parties, in each case, covering such matters as may be reasonably requested by the Administrative Agent and otherwise in form and substance reasonably satisfactory to the Administrative Agent;

(x) a true, correct and complete copy of each of the Material Project Agreements, other than the Foster Wheeler Settlement Agreement and the Siemens GSA (except those portions of the Foster Wheeler Settlement Agreement and the Siemens GSA that have been publicly filed with the Bankruptcy Court) which shall each be in full force and effect;

(xi) a certificate of a Responsible Officer of the Borrower certifying the satisfaction of the conditions set forth in Sections 5.01(c), (d) and (l); and

(xii) a duly executed letter of direction from the Borrower addressed to the Administrative Agent, on behalf of itself and the Lender Parties, directing the disbursement on the Closing Date of the proceeds of the Advances made on such date.

(b) The Administrative Agent shall have received on or before the Closing Date the following, each dated as of the Closing Date (unless otherwise specified), in form and substance reasonably satisfactory to the Administrative Agent:

(i) Each of the Pledge and Security Agreement and the Depositary Agreement, duly executed by the Persons party thereto, together with:

(A) certificates (if any) representing the Pledged Equity Interests referred to therein accompanied by undated stock powers executed in blank;

(B) appropriately completed UCC financing statements (Form UCC-1), naming the Loan Parties as debtor and the Collateral Agent as secured party, in form appropriate for filing under the Uniform Commercial Code of the State of Delaware, covering the Collateral described in the Pledge and Security Agreement;

(C) completed requests for information or similar search report, dated on or before the Closing Date, listing all effective financing statements filed in the Office of the Secretary of State of the state of incorporation or formation, as applicable, of each Loan Party that name any Loan Party as debtor, together with copies of such other financing statements; and

(D) evidence that, subject to the last paragraph of this Section 5.01, all other action that the Administrative Agent may deem necessary in order to perfect and protect the first priority liens and security interests created under the Pledge and Security Agreement has been taken; and

(ii) Except as set forth in Section 7.01(u) hereof, deeds of trust, trust deeds, deeds to secure debt, mortgages, leasehold mortgages and leasehold deeds of trust, in substantially the form of Exhibit F (with such changes as may be satisfactory to the

Administrative Agent and its counsel to account for local law matters) and otherwise in form and substance reasonably satisfactory to the Administrative Agent and covering the Real Estate Assets listed on Schedule 5.01(b)(ii) (together with each other mortgage delivered pursuant to Section 7.01(p) and (u), as amended, the "***Mortgages***"), duly executed by the relevant Loan Party, together with:

(A) evidence that counterparts of each of the Mortgages have been either (x) duly recorded on or before the Closing Date or (y) duly executed, notarized, acknowledged and delivered in form suitable for filing or recording, in all filing or recording offices that the Administrative Agent may deem necessary or desirable in order to create a valid first and subsisting Lien (subject to Permitted Liens) on the Mortgaged Property in favor of the Collateral Agent for the benefit of the Secured Parties (and adequate provision for such filing or recording has been made in a manner reasonably acceptable to the Administrative Agent) and that all filing and recording Taxes and fees in connection with the Mortgages have been paid, will be paid on the Closing Date with the proceeds of the Advances or have been placed in escrow with the title company pending recording;

(B) each Title Policy, together with evidence satisfactory to Administrative Agent that each applicable Loan Party has paid to the title company or to the appropriate Governmental Authorities all expenses and premiums of the title company and all other sums required in connection with the issuance of each Title Policy, and copies of all recorded documents listed as exceptions to title or otherwise referred to such Title Policies, all in form and substance satisfactory to the Administrative Agent, acting reasonably;

(C) except as set forth in Section 7.01(u), surveys in form and substance acceptable to the Administrative Agent, acting reasonably, with respect to the Mortgaged Property, certified to the Administrative Agent and the Collateral Agent by a form of certification acceptable to the Administrative Agent, acting reasonably;

(D) (1) a completed Flood Certificate with respect to each Mortgaged Property, which Flood Certificate shall (x) be addressed to the Collateral Agent and (y) otherwise comply with the Flood Program; (2) if the Flood Certificate states that such Mortgaged Property is located in a Flood Zone, Borrower's written acknowledgment of receipt of written notification from the Collateral Agent (x) as to the existence of such Mortgaged Property and (y) as to whether the community in which each Mortgaged Property is located is participating in the Flood Program; and (3) if such Mortgaged Property is located in a Flood Zone and is located in a community that participates in the Flood Program, evidence that Borrower has obtained a policy of flood insurance that is in compliance with all applicable requirements of the Flood Program;

(E) with respect to the Ground Lease, such consents, approvals, amendments, supplements, estoppels, tenant subordination agreements or other

instruments as are necessary to consummate the Transactions or as shall reasonably be deemed necessary by the Collateral Agent in order for the owner or holder of the fee or leasehold interest constituting such Mortgaged Property to grant the Lien contemplated by the Mortgage with respect to such Mortgaged Property, including, without limitation, a Ground Lessor Estoppel duly executed and delivered by the Ground Lessor for the benefit of Collateral Agent; and

(F) a recorded memorandum of the Ground Lease (if not already of record) in the applicable filing office prior to the recordation of the respective Mortgage for such Mortgaged Property.

For the avoidance of doubt, in the event of a conflict between the deliverables contained in this Section 5.01(b)(ii) and Section 7.01(p) and (u), Section 7.01(p) and (u), as applicable, shall govern.

(c) Immediately following the Transactions contemplated to be consummated as of the Closing Date, none of the Loan Parties shall have any debt for borrowed money other than Permitted Debt.

(d) The Bankruptcy Court shall have entered a final and non-appealable order confirming the Plan of Reorganization, which Plan of Reorganization shall be in form and substance reasonably acceptable to the Administrative Agent, provided that the Second Amended Plan of Reorganization filed with the Bankruptcy Court on February 18, 2015 is deemed to be in form and substance acceptable to the Administrative Agent, and no provision of the Plan of Reorganization shall have been waived, amended, supplemented or otherwise modified in any respect that is materially adverse to the rights and interests of any or all of the Joint Lead Arrangers, the Administrative Agent, the Collateral Agent, the Lenders (taken as a whole) and their respective Affiliates (as determined in good faith by the Joint Lead Arrangers). Any material amendments, modifications or supplements to the Plan of Reorganization presented to the Administrative Agent prior to the Closing Date shall also be in form and substance acceptable to the Administrative Agent to the extent they are adverse to the rights and interests of any or all of the Joint Lead Arrangers, the Administrative Agent, the Collateral Agent, the Lenders (taken as a whole) and their respective Affiliates. Each condition precedent to the effective date of the Plan of Reorganization shall have been satisfied (or waived with the prior written consent of the Administrative Agent; provided no such waiver will be required if not materially adverse to the rights and interests of any or all of the Joint Lead Arrangers, the Administrative Agent, the Collateral Agent, the Lenders (taken as a whole) and their respective Affiliates) in accordance with its terms.

(e) The 9019 Order and the Foster Wheeler Settlement Order (each, as defined in the Plan of Reorganization) shall be Final Orders and shall not have been reversed, amended, stayed or otherwise modified. The Settlement Agreements shall be in full force and effect on the Closing Date. No party to any of the Settlement Agreements shall have materially breached such Settlement Agreement.

(f) The Bankruptcy Court shall have approved of each of the Commitment Letter and the Fee Letter.

(g) The Borrower shall have established each of the "Depositary Accounts" under and as defined in Section 2.2 of the Depositary Agreement.

(h) Concurrently with the consummation of the transactions contemplated hereby, the Borrower shall have paid all accrued and unpaid fees and all accrued and unpaid expenses under the Fee Letter and otherwise of the Agents and Joint Lead Arrangers (including, the reasonable, documented and out-of-pocket accrued and unpaid fees and expenses of counsel thereto to the extent invoiced at least three Business Days prior to the Closing Date).

(i) The Debt Service Reserve Account shall have been concurrently fully funded in an aggregate amount equal to the Debt Service Reserve Requirement through the deposit of cash or a DSRA Letter of Credit into the Debt Service Reserve Account.

(j) The Joint Lead Arrangers shall have received (i) reasonably satisfactory market consultants' reports, independent engineering reports and coal reports, for the entire business and Phase I environmental assessment reports for currently active operations (ii) reasonably satisfactory reliance letters permitting the Joint Lead Arrangers and the Lenders to rely upon such reports.

(k) The Borrower and each of the Guarantors shall have provided to the Administrative Agent and the Joint Lead Arrangers, at least three days prior to the Closing Date, such documentation and other information regarding the Borrower and each Guarantor as required by regulatory authorities under applicable "know-your-customer" rules and regulations, including the Patriot Act, to the extent reasonably requested by any Lender to the Administrative Agent and conveyed by the Administrative Agent to the Borrower in writing at least 10 days prior to the Closing Date.

(l) The Required Insurance shall be in full force and effect and the Administrative Agent shall have received (i) a certificate from the Loan Parties' insurance broker(s), dated the Closing Date and identifying underwriters, type of insurance, insurance limits and policy terms, listing the special provisions required as set forth in Schedule 7.01(d), describing the insurance obtained and stating that such insurance is in full force and effect and that all premiums then due thereon have been paid, (ii) a report of the Insurance Consultant (in form and substance reasonably satisfactory to the Joint Lead Arrangers) and (iii) a certificate of the Insurance Consultant (including, if necessary, permission for the Administrative Agent and the Lenders to rely on the Insurance Consultant's report specified in clause (l)(ii)) in form and substance reasonably satisfactory to the Joint Lead Arrangers.

(m) Either (i) (A) the Administrative Agent shall have received a copy of the Cash Collateralized LC Facility Agreement duly executed and delivered by each Loan Party and each other intended party thereto (together with all other principal closing documentation executed or delivered in connection therewith), (B) there shall be no unsatisfied conditions to the effectiveness thereof (other than the initial funding hereunder) and (C) the commitments to issue letters of credit thereunder shall be no less than $[25,000,000] or (ii) the Administrative Agent shall have received reasonably satisfactory evidence that each of the obligations under the project contracts of the Loan Parties to deliver letters of credit shall have instead been fulfilled with cash collateral and/or Letters of Credit.

If the conditions set forth in this Section 5.01 are satisfied or waived (it being understood that, to the extent any Lien or security interest in any Collateral is not or cannot be perfected on the Closing Date after the Borrower's use of commercially reasonable efforts to do so (other than (x) the filing of Uniform Commercial Code financing statements, (y) the filing of intellectual property security agreements for intellectual property that is registered (or the subject of an application for registration) in the United States as of the Closing Date to the extent such intellectual property is part of the Collateral, and (z) the delivery of stock certificates for Capital Stock that is part of the Collateral)), the providing of such Collateral shall not constitute a condition precedent to the availability of the Facilities on the Closing Date but instead may be accomplished within 30 days after the Closing Date (as the same may be extended by the Administrative Agent in its reasonable discretion). The Administrative Agent shall advise the Collateral Agent if this paragraph shall apply.

SECTION 5.02. Conditions Precedent to Each Borrowing and Issuance. The obligation of each Appropriate Lender to make a Credit Extension (including each initial Borrowing, but other than L/C Advances), and the obligation of any Issuing Bank to issue any Letter of Credit (including the initial issuance) or renew a Letter of Credit shall be subject to the further conditions precedent that (x) the Administrative Agent shall have received a Funding Notice or L/C Credit Extension Request, as applicable, in accordance with the requirements hereof and (y) as of such Credit Date, the following statements shall be true (and each of the giving of the applicable Funding Notice or L/C Credit Extension Request and the acceptance by the Borrower of the proceeds of such Borrowing or of such Letter of Credit shall constitute a representation and warranty by the Borrower that on such Credit Date such statements are true):

(a) each of the representations and warranties of the Loan Parties contained in (1) in the case of the Credit Date falling on the Closing Date, each Loan Document to which they are a party and (2) in the case of each other Credit Date, the Credit Agreement, in either case, are true and correct in all material respects (provided that, in each case, to the extent any such representations and warranties are qualified by materiality, such representations and warranties shall be true and correct in all respects) on and as of such date, before and after giving effect to the Credit Extension to be made on such date and, with respect to any Borrowing, to the application of the proceeds therefrom, as though made on and as of such date, other than any such representations or warranties that, by their terms, refer to a specific date other than the Credit Date, in which case as of such specific date; and

(b) no Default has occurred and is continuing, or would result from the Credit Extension to be made on such Credit Date or, with respect to any Borrowing, from the application of the proceeds therefrom.

SECTION 5.03. Determinations Under Sections 5.01 and 5.02. For purposes of determining compliance with the conditions specified in Section 5.01 or 5.02, each Lender Party shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lender Parties unless an officer of the Administrative Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender Party prior to the Closing Date or such other applicable date specifying its objection

thereto and, to the extent applicable, such Lender Party shall not have made available to the Administrative Agent such Lender Party's Pro Rata Share of such Borrowing.

SECTION 5.04. Notices. Any Notice shall be executed by a Responsible Officer of the Borrower in a writing delivered to the Administrative Agent. In lieu of delivering a Notice, the Borrower may give the Administrative Agent telephonic notice by the required time of any proposed Borrowing, Conversion or issuance of a Letter of Credit, as the case may be; ***provided*** that such notice shall be promptly confirmed in writing by delivery of the applicable Notice to the Administrative Agent on or before the applicable date of Borrowing, continuation or issuance and such confirmation shall be consistent with the initial telephonic notice. Neither the Administrative Agent nor any Lender Party shall incur any liability to the Borrower in acting upon any telephonic notice referred to above that the Administrative Agent believes in good faith to have been given by a duly authorized officer or other Person authorized on behalf of the Borrower or for otherwise acting in good faith.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

SECTION 6.01. Representations and Warranties. In order to induce each Agent and each Lender Party to enter into this Agreement and to make each Credit Extension to be made thereby, each Loan Party represents and warrants to such Agent and Lender Party, on the Closing Date and on each Credit Date, that the following statements are true and correct:

(a) Organization; Requisite Power and Authority; Qualification. Each Loan Party (i) is duly organized or formed, validly existing and in good standing (to the extent such concept exists under applicable law) under the law of the jurisdiction of its incorporation or formation as identified in Schedule 6.01(a) (or as modified pursuant to Section 7.02(d)), (ii) has all requisite power and authority to own and operate its Properties, to carry on its business as now conducted and as proposed to be conducted except where such failure has not had, and could not reasonably be expected to have, a Material Adverse Effect, (iii) has all requisite power and authority to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby and (iv) is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

(b) Capital Stock and Ownership. The Capital Stock of each Loan Party (other than Holdings) has been duly authorized and validly issued and is fully paid and non-assessable and is owned by a Loan Party free and clear of all Liens, except those created under the Collateral Documents and other Permitted Liens. Except as set forth on Schedule 6.01(b) as of the Closing Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Loan Party is a party requiring, and there is no Capital Stock of any Loan Party outstanding which upon conversion or exchange would require, the issuance by any Loan Party of any Capital Stock or other Securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase, Capital Stock of any Loan Party. Schedule 6.01(b) correctly sets forth the ownership interest of the Loan Parties as of the Closing

Date after giving effect to the Transactions contemplated to be consummated as of the Closing Date.

(c) Due Authorization. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary corporate, limited liability company or limited partnership (as applicable) action on the part of each Loan Party that is a party thereto.

(d) No Conflict. The execution, delivery and performance by the Loan Parties of the Loan Documents to which they are parties and the transactions contemplated by the Loan Documents do not and will not (i) violate (A) any provision of any law or any governmental rule or regulation applicable to any of the Loan Parties, (B) any of the Organizational Documents of any of the Loan Parties or (C) any order, judgment or decree of any court or other agency of government binding on any of the Loan Parties except, in the case of sub-clauses (i)(A) and (i)(C) of this clause (d), where such violation could not reasonably be expected to have a Material Adverse Effect; (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation binding on any of the Loan Parties except to the extent such conflict, breach or default could not reasonably be expected to have a Material Adverse Effect; (iii) result in or require the creation or imposition of any Lien upon any of the Properties of any of the Loan Parties (other than any Permitted Liens); or (iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of any of the Loan Parties, except for (A) such approvals or consents which have been obtained and are in full force and effect, and (B) any such approvals or consents the failure of which to obtain could not reasonably be expected to have a Material Adverse Effect.

(e) Governmental Consents. (i) The execution, delivery and performance by the Loan Parties of the Loan Documents to which they are parties and the consummation of the transactions contemplated by the Loan Documents do not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except for (A) the registrations, consents, approvals, notices or other actions which have been duly obtained, taken, given or made and, are in full force and effect, (B) registrations, consents, approvals, notices or other actions required by securities, regulatory or applicable law in connection with an exercise of remedies, (C) such registrations, consents, approvals, notices or other actions that if not obtained and maintained in full force and effect could not reasonably be expected to have a Material Adverse Effect and (D) the filing of applicable UCC financing statements and other lien filings contemplated by the Collateral Documents.

(ii) As of the Closing Date, other than as set forth on Schedule 6.01(e), no Governmental Authorization, and no notice to, filing with, or consent or approval of any Governmental Authority is required in connection with the development, construction, testing, operation, maintenance, repair, ownership, or use of the businesses of any of the Loan Parties in accordance with any applicable law (excluding any Environmental Law or Mining Laws, which are exclusively covered under Section 6.01(k)) and as otherwise contemplated by this Agreement, except for (A) any such Governmental Authorizations, notices, filings, consents or approvals held by the Loan Parties, all of which (1) have been duly obtained, taken, given or made and (2) are in full force and effect, (3) are not subject to any unsatisfied condition, or to any restriction,

limitation or other provision that could reasonably be expected to result in a material limitation on the effectiveness thereof or a material modification or revocation thereof, and (4) all applicable appeal periods with respect thereto have expired, or (B) any such Governmental Authorizations, notices, filings, consents or approvals, the failure of which to obtain and maintain could not reasonably be expected to result in a Material Adverse Effect. Further, no fact or circumstance exists, to the Loan Parties' knowledge, which indicates that any Governmental Authorization necessary in order to develop, construct, test, operate, maintain, repair, own or use the businesses of any of the Loan Parties which is not currently held by the Loan Parties shall not be timely obtainable and fully effective without material difficulty, expense or delay by the Loan Parties, on or before the date such a Governmental Authorization is required.

(f) Binding Obligation. Each Loan Document has been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

(g) Financial Statements; No Material Adverse Effect.

(i) The financial statements of the Loan Parties furnished to the Administrative Agent pursuant to Section 5.01(a)(viii) and Section 7.03(b) or (c) fairly present in all material respects the financial condition and the results of operations and cash flows of the Loan Parties as of the date thereof, all in accordance with GAAP (subject to normal year-end adjustments and, in the case of unaudited financial statements, the absence of footnotes).

(ii) Since March 16, 2015, no event, circumstance or change has occurred and is continuing to occur that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect.

(h) Projections. On and as of the Closing Date, the Base Case Projections and the Initial Operating Budget delivered to the Administrative Agent pursuant to Section 5.01(a)(viii)(B) and (C) are based on good faith estimates and assumptions made by the management of the Loan Parties; *provided* that the Base Case Projections are not to be viewed as facts and that actual results during the period or periods covered by the Base Case Projections may differ from such Base Case Projections and that the differences may be material; *provided further* that, as of the Closing Date, management of the Loan Parties believed the Base Case Projections were reasonable.

(i) Adverse Proceedings, Etc. Except as disclosed in Schedule 6.01(i), there are no Adverse Proceedings, individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect. Except as disclosed in Schedule 6.01(i), no Loan Party is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or

in the aggregate, could reasonably be expected to have a Material Adverse Effect. Except as disclosed in Schedule 6.01(i), no Loan Party is the subject of any pending or threatened investigation or recommended enforcement action by the market monitor for any independent system operator or regional transmission organization, including the market monitor for PJM, that individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(j) Taxes. As of the Closing Date, except as otherwise permitted under Section 7.01(b), all material tax returns and reports of the Loan Parties required to be filed by any of them have been timely filed, and all material Taxes due and payable by the Loan Parties upon their respective properties, assets, income, businesses and franchises have been paid when due and payable. As of the Closing Date, there is no material audit, claim or assessment pending or proposed in writing against any of the Loan Parties regarding any taxes relating to any Loan Party, which is not being contested by such Loan Party in good faith and by appropriate proceedings; *provided* that reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

(k) Environmental and Mining Matters.

(i) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (A) none of the Loan Parties and their respective Properties or operations is or has been in violation, which remains unresolved, of any Environmental Laws, (B) none of the Loan Parties and their respective Properties or operations is subject to any outstanding written order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Action, or any Hazardous Materials Activity, (C) no Loan Party has received any letter or request for information relating to the Business under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604) or any comparable state law, (D) none of the Loan Parties and their respective Properties or operations is subject to any actual or, to the Loan Parties' knowledge, threatened Environmental Action.

(ii) No notice under any Environmental Law indicating past or present treatment, storage or disposal of Hazardous Materials at the Real Estate Assets has been filed that remains unresolved and could be reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(iii) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, none of the Loan Parties, including Mepco Group Members, have assumed or retained, by contract or operation of law, any current liabilities of any kind, fixed or contingent, under any Environmental Law or Mining Law or with respect to any Hazardous Materials or Hazardous Materials Activity.

(iv) As of the Closing Date, compliance of the Loan Parties with all current requirements pursuant to or under Environmental Laws (including any requirement to obtain, maintain, renew or comply with a permit or to hold, purchase, trade, use or otherwise consume Emission Allowances) and Mining Laws would not

require actions that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(v) To the Loan Parties' knowledge, no event or condition has occurred or is occurring with respect to the Loan Parties or any of their respective Properties or operations relating to any Environmental Law or Mining Law, any Release of Hazardous Materials, or any Hazardous Materials Activity, which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(vi) The Mines are being maintained and operated in compliance with any currently applicable law, rule or regulation (including any zoning, building, Environmental Law, the Federal Mine Safety Act and any other Mining Law, ordinance, code or approval or any building permit) and in compliance with the requirements of all Environmental or Mining Permits required for any of their current operations as presently conducted, except, in each case, where such failure to comply could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(vii) The Loan Parties, including the Mepco Group Members, hold and are in compliance with all Governmental Authorizations, including all Environmental or Mining Permits, each of which is in full force and effect and is not subject to an appeal action, required for any of their current operations or for any Real Estate Assets owned, leased, or otherwise operated by any of them, including all Environmental or Mining Permits required for the Mines or any active construction or expansion thereof, except for (A) such Environmental or Mining Permits as are listed in Schedule 6.01(k)(vii) (the "***Pending Mine Permits***") and (B) such Environmental or Mining Permits for which the failure to hold or be in compliance with could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. With respect to each Pending Mine Permit that has not yet been validly issued to or made by Mepco and the Mepco Subsidiaries or is not yet in full force and effect and Non-Appealable in all material respects, such Pending Mine Permit is not currently necessary for the operation of the Mines by Mepco and the Mepco Subsidiaries in accordance with applicable Environmental Laws and Mining Laws, Mepco and the Mepco Subsidiaries have made all necessary filings and applications to have such Pending Mine Permit be validly issued to Mepco and the Mepco Subsidiaries and be in full force and effect and Non-Appealable in all material respects, and Mepco expects that such Pending Mine Permit will be validly issued to Mepco and the Mepco Subsidiaries and be in full force and effect and Non-Appealable in all material respects in a timely manner without material delay, expense or adverse conditions.

(viii) In the case of Mepco and its Subsidiaries:

(A) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (1) there has been no Hazardous Materials on, under, in, or about the Mines or any other Real Estate Assets now or, to the Knowledge of Mepco, formerly owned, leased or operated by Mepco or any Mepco Subsidiary, or, to the Knowledge of Mepco, at any other location (including any location to which Hazardous Materials have been sent for

re-use or recycling or for treatment, storage, or disposal), other than any such Hazardous Materials to the extent reasonably related to any coal mining, processing and selling activities and that are in compliance with Environmental Law; (2) there are, and, to the Knowledge of Mepco, have been, no landfills or coal refuse disposal areas located at, on, in or under the Mines or any other current or former Real Estate Assets owned or operated by or on behalf of Mepco or any Mepco Subsidiary, except for those coal refuse disposal facilities authorized under Environmental or Mining Permits; and (3) to the knowledge of Mepco, none of the Mines has any associated acid mine drainage, other than any such acid mine drainage which is currently receiving treatment to the extent required by Environmental Law and for which there are, and have been, no Environmental Actions; and (4) the Mepco Group Members have caused all contractors, lessees, and other Persons occupying or using the Mines or any other Real Estate Assets owned by them to comply with all Environmental Laws and Mining Laws and to obtain all Environmental or Mining Permits required for operation of the Mines.

(B) Mepco or the Mepco Subsidiaries have obtained all performance bonds, surety bonds, payments or prepayments, letters of credit, certificates of deposit or other sums or assets required to be posted under any Mining Law for Reclamation or otherwise in the amounts and forms required thereunder with respect to the Mines or other Real Estate Assets owned by Mepco or the Mepco Subsidiaries (collectively, "***Mining Financial Assurances***"). All such Mining Financial Assurances as of the Closing Date are listed on Schedule 6.01(k)(viii)(B).

(C) No Mepco Group Member, and no officer, director, or person who owns more than ten percent of a Loan Party's security interests, has (i) been barred for a period of 30 or more consecutive days from receiving surface or underground Environmental or Mining Permits pursuant to the permit blockage provisions of SMCRA, and the regulations promulgated thereunder, or pursuant to any other Environmental Law or Mining Law, (ii) been notified by any Governmental Authority of potential ineligibility to receive any Environmental or Mining Permits or (iii) been subject to any injunction or closure order pursuant to any Mining Law or pursuant to any Environmental or Mining Permits.

(D) Each Mepco Group Member has provided the Administrative Agent or their agents or consultants with access to all material records and files in the possession, custody or control of, or otherwise reasonably available to, such Mepco Group Member concerning compliance with or liability under any Environmental or Mining Permit, Environmental Law or Mining Law, including those concerning any Hazardous Materials Activity at the Mines.

(E) There are no Black Lung Liabilities pending or, to the knowledge of Mepco, threatened against any Mepco Group Member, nor have any Black Lung Liabilities been assumed by any such Mepco Group Member,

except for any such Black Lung Liabilities that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(F) There have been no accidents, explosions, implosions, collapses or flooding at or otherwise related to the Mines that have, directly or indirectly, resulted in (1) any fatality, (2) the trapping of any Person in the Mines for more than 24 hours or (3) any Environmental Action, except for, in the case of (1) through (3) above, as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(l) No Defaults. No Default or Event of Default has occurred and is continuing hereunder or under any of the Material Project Agreements except, in the case of the Material Project Agreements, as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents).

(m) Contracts. (i) As of the Closing Date, true, correct and complete copies of each of the Material Project Agreements, other than the Foster Wheeler Settlement Agreement and the Siemens GSA (except those portions of the Foster Wheeler Settlement Agreement and the Siemens GSA that have been publicly filed with the Bankruptcy Court), have been delivered, or made available to, the Administrative Agent.

(ii) As of the Closing Date, each of the Material Project Agreements are in effect is in full force and effect, except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents).

(iii) (A) There are no material services (including utility services), materials or rights required for the construction, interconnection, operation or maintenance of the Business in accordance in all material respects with the Prudent Industry Practices or Prudent Coal Industry Practice, as the case may be, other than those available under the Material Project Agreements, the other agreements of the Loan Parties in effect as of the Closing Date or those that can reasonably be expected to be made available on commercially reasonable terms at the time needed and (B) the Interconnection Agreements provide sufficient interconnection rights for the delivery of all capacity and energy to be produced by the Business, in the case of each of (A) and (B) above, except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents).

(n) Governmental Regulation.

(i) No Loan Party is subject to regulation under the Investment Company Act of 1940 or, other than Section 204 of the FPA, under any other federal or state statute or regulation which may limit its ability to incur Debt or which may

otherwise render all or any portion of the Obligations hereunder or under the other Loan Documents unenforceable.

(ii) No Loan Party is a "*registered investment company*" or a company "*controlled*" by a "*registered investment company*" or a "*principal underwriter*" of a "r*egistered investment company*" as such terms are defined in the Investment Company Act of 1940.

(iii) The Borrower is in compliance with the FPA and PUHCA, except where failure to be in such compliance could not reasonably be expected to have a Material Adverse Effect.

(iv) The Borrower meets the requirements for, and has self-certified its status as an EWG.

(v) The Borrower has validly-issued orders from FERC: (i) accepting the Reactive Power Tariff, which sets forth the Borrower's revenue requirement for reactive supply service under the PJM OATT; and (ii) granting the Borrower MBR Authority. Such orders are not subject to any pending challenge or investigation and FERC has not issued any orders imposing a rate cap, mitigation measure, or other limitation on the Borrower's authority to engage in sales of electric energy, capacity and certain ancillary services pursuant to its MBR Authority, other than rate caps and mitigation measures generally applicable to wholesale suppliers participating in the applicable electric market.

(vi) The Borrower is not subject to any approval, obligation or regulation as a public utility by any Governmental Authority under any state law, by virtue of its sale of electric energy, capacity or ancillary services.

(vii) Other than approvals and authorizations already obtained, no approval or authorization is required to be obtained by the Borrower from FERC or any other state or federal Governmental Authority with jurisdiction over the sales of electric energy, capacity and any ancillary services or the financial agreements of the Borrower for the Borrower to enter into any Transaction Document or to the own, operate, control or sell electric energy, capacity and ancillary services from the Project.

(viii) None of the Lenders, Administrative Agent, Joint Lead Arrangers or any "affiliate" (as that term is defined in PUHCA) of any of them will, solely by reason of the transactions contemplated by the Loan Documents (except in connection with the exercise of remedies under the Loan Documents or in connection with the conversion of debt securities to equity ownership interests in Longview Intermediate Holdings C, LLC), either be deemed to be a "public utility" under the FPA or state laws or a "holding company" or "public utility company" under PUHCA, or be subject to regulation as a "public utility" under the FPA, a "holding company" under PUHCA, or under state laws and regulations respecting the rates of, or the financial or organizational regulation of, electric utilities, except that the exercise of certain remedies allowed under the Loan Documents may subject the Lenders, Administrative Agent, Joint Lead

Arrangers and their "affiliates" (as that term is defined in PUHCA) to regulation under the FPA, PUHCA or state laws respecting the rates of, or the financial or organizational regulation of, electric utilities.

(o) Use of Proceeds; Margin Stock. The proceeds of each Advance and other extensions of credit hereunder have been or will be used solely in accordance with, and solely for the purposes contemplated by, Section 4.09. No Loan Party is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the Advances or drawings under any Letter of Credit will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors.

(p) Employee Benefit Plans. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each Loan Party and each of their respective ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, (ii) each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the IRS indicating that such Employee Benefit Plan is so qualified and, to the knowledge of the Borrower, nothing has occurred subsequent to the issuance of such determination letter which could cause such Employee Benefit Plan to lose its qualified status, (iii) no liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan or any trust established under Title IV of ERISA has been or is reasonably expected to be incurred by, any of the Loan Parties or any of their ERISA Affiliates, (iv) no ERISA Event has occurred or is reasonably expected to occur, (v) except to the extent required under Section 4980B of the Internal Revenue Code or similar state laws, no Employee Benefit Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any of the Loan Parties or any of their respective ERISA Affiliates, and (vi) the Loan Parties and each of their ERISA Affiliates have complied with the requirements of Section 515 of ERISA with respect to each Multiemployer Plan and are not in "default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan. Mepco and each Mepco Subsidiary are in compliance with the Black Lung Act and the Federal Mine Safety Act, and any regulations promulgated thereunder, except for such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

(q) Certain Fees. No broker's or finder's fee or commission will be payable by any Loan Party with respect hereto or to any of the Transactions, except as payable to the Agents and the Lender Parties pursuant to the Loan Documents and as set forth on Schedule 6.01(q).

(r) Solvency. As of the Closing Date, immediately after giving effect to the Transaction, the Loan Parties and their Subsidiaries, on a Consolidated basis, are Solvent.

(s) Compliance with Statutes, Etc. As of the Closing Date, each of the Loan Parties is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authorities, in respect of the operation of the Business, the conduct of its business and the ownership of its property, except such non-compliance that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(t) Disclosure. As of the Closing Date, to the best knowledge of the Borrower, all written information (other than projections, budgets, other forward-looking information, historical financial information, reports prepared by third party consultants or information of a general economic or industry specific nature) provided directly or indirectly by or on behalf of the Borrower to any Agent or Lender Party in connection with the transactions contemplated hereunder is, when taken as a whole and as of the date as of which information is dated or certified, correct in all material respects and does not (as of the time made or delivered) contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, when taken as a whole, not materially misleading in light of the circumstances under which such statements were made (giving effect to supplements and updates thereto) (it being recognized by the Agent and Lender Parties that any projections and forecasts provided by any Loan Party are based on good faith estimates and assumptions believed by any Loan Party to be reasonable as of the date of the applicable projections or assumptions and that actual results during the period or periods covered by any such projections and forecasts may differ materially from projected or forecasted results, which are speculative by their nature).

(u) Sanctions and Anti-Corruption. To the extent applicable, each Loan Party is in compliance, in all material respects, with the (i) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) Patriot Act. No part of the proceeds of the Advances or any drawing under any Letter of Credit will be used, directly or indirectly by any Loan Party, for (i) any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977 or any other applicable anti-bribery or anti-corruption law, or (ii) any reimbursements or payment in violation of applicable campaign finance laws.

(v) Security Interests. Subject to any post-closing items, conditions and obligations (including, without limitation, Section 7.01(p), (u) and the last paragraph of Section 5.01), the Liens granted to the Collateral Agent pursuant to the Collateral Documents with respect to the Collateral (i) constitute valid and subsisting Liens of record on such rights, title or interest as such Loan Party shall from time to time have in all real property covered by the Mortgages, (ii) to the extent required by the Collateral Documents and subject to the last paragraph of Section 5.01, constitute perfected security interests in such rights, title or interest as such Loan Party shall from time to time have in all personal property included in the Collateral, and (iii) are subject to no Liens, except Permitted Liens. Subject to any post-closing items, conditions and obligations (including, without limitation, Section 7.01(p), (u) and the last paragraph of Section 5.01), except to the extent possession of portions of the Collateral is

required for perfection, all such action as is necessary has been taken to establish and perfect the Collateral Agent's rights in and to the Collateral, including any recording, filing, registration, giving of notice or other similar action (assuming proper recordation of any such documents). Subject to any post-closing items, conditions and obligations (including, without limitation, Section 7.01(p), (u) and the last paragraph of Section 5.01), to the extent required by the Collateral Documents, the Loan Parties have properly delivered or caused to be delivered, or provided control of, to the Collateral Agent all Collateral that requires perfection of the Lien described above by possession or control.

(w) Real Property.

(i) As of the Closing Date, each Loan Party has good and sufficient marketable title or a valid and subsisting estate or real property interest to or in the Real Estate Assets (in each case of the foregoing except where failure to do so could not reasonably be expected to have a Material Adverse Effect), free and clear of all Liens except Permitted Liens. The Real Estate Assets of the Loan Parties, taken as a whole, (i) except for the Real Estate to be repaired in connection with the 2015 Major Outage (as defined in the Depositary Agreement), are in good operating order, condition and repair (ordinary wear and tear excepted), and (ii) constitute all the Real Estate Assets which are required for the business and operations of the Loan Parties as presently conducted and as intended to be conducted during the term of this Agreement.

(ii) As of the Closing Date, Schedule 6.01(w)(ii) contains a true, accurate and complete list of all Real Estate Assets, including, without limitation, all Leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof) affecting each Real Estate Asset of any Loan Party, regardless of whether such Loan Party is the landlord or tenant (whether directly or as an assignee or successor in interest) under such Lease. Each agreement referenced in the immediately preceding sentence is in full force and effect, and each such agreement constitutes the legally valid and binding obligation of each applicable Loan Party, enforceable against such Loan Party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability. True, correct and complete copies of the Ground Lease and the Leases have been provided to Administrative Agent on or prior to the Closing Date. There are no events of default or circumstances which, after the giving of notice, the passage of time or both, shall constitute an event of default under any such Leases, including, without limitation, the Ground Lease, and all such Leases are in full force and effect as of the Closing Date.

(iii) Except for exceptions to the following that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Real Estate Asset is free from damage from fire or other casualty, and there is no pending or threatened condemnation or eminent domain proceeding with respect to, or that could affect any of the Real Property of the Loan Parties.

(iv) Each Real Estate Asset is taxed as a separate tax lot and is currently being used in a manner that is consistent with and in compliance in all material

respects with any property classification assigned to it for real estate tax assessment purposes.

(v) Schedule 6.01(w)(v) contains a true, accurate and complete list of all Real Estate Assets constituting all of the material assets utilized in connection with the operation of Mepco and its Subsidiaries.

(x) Pari Passu. The Loan Parties' obligations under this Agreement rank and will rank at least *pari passu* in priority of payment and in all other respects with all other present or future unsecured and secured debt for borrowed money of the Loan Parties.

(y) Intellectual Property. Each Loan Party owns or has the right to use all patents, trademarks, service marks, trade names, domain names, copyrights, licenses and other rights which are necessary for the rehabilitation, construction, ownership and operation of the Business in accordance with the Transaction Documents, in each case, as to which the failure of such Loan Party to so own or have the right to use would reasonably be expected to have a Material Adverse Effect. No material product, process, method, substance, part or other material presently contemplated to be sold or employed by a Loan Party in connection with its business will infringe any patent, trademark, service mark, trade name, domain name, copyright, license or other right owned by any other Person in a manner that could reasonably be expected to have a Material Adverse Effect.

(z) Insurance. All insurance policies required to be obtained by or on behalf of any Loan Party as of the Closing Date pursuant to Section 7.01(d) have been obtained and are in full force and effect and all premiums then due and payable thereon have been paid in full. None of the Loan Parties has received any notice from any insurer that any insurance policy has ceased to be in full force and effect or claiming that the insurer's liability under any such insurance policy can be reduced or avoided.

(aa) OFAC and Related Matters.

(i) Neither the Loan Parties nor any of their respective Subsidiaries (collectively, the "***Group***") nor any director or officer thereof, nor, to the Group's knowledge, any, agent, employee, Affiliate or representative of the Group, is an individual or entity that is, or is owned or controlled by a Person that is: (i) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the United Nations Security Council, the European Union or Her Majesty's Treasury (collectively, "***Sanctions***"), nor (ii) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Cuba, Iran, North Korea, Sudan and Syria).

(ii) Each Loan Party represents and covenants that it will not, directly or indirectly, use the proceeds of the Advances, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person (i) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the

subject of Sanctions; or (ii) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the Advances, whether as underwriter, advisor, investor or otherwise).

(iii) The operations of the Loan Parties and, to the Group's knowledge, their Affiliates are and have been conducted at all times in compliance, in all material respects, with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1977, as amended by the Patriot Act, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any U.S. Governmental Authority (collectively, the "***Money Laundering Laws***") and no action, suit or proceeding by or before any court or Governmental Authority or any arbitrator involving the Loan Parties and their Affiliates with respect to the Money Laundering Laws is pending or, to the knowledge of the Group, threatened.

(iv) No Loan Party, nor their directors or officers, nor, to their knowledge, any employee, agent or representative of any Loan Party, or any Affiliate of the Loan Parties, has taken or will take any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; and each Loan Party and its Affiliates have conducted their businesses in compliance with applicable anti-corruption laws (including, without limitation, the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar applicable legislation in other jurisdictions) and have instituted and maintain and will continue to maintain policies and procedures designed to promote and achieve compliance with such laws and with the representation and warranty contained herein.

(v) The Group and, to the Group's knowledge, their Affiliates have conducted their businesses in compliance with applicable anti-corruption laws (including, without limitation, the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar applicable legislation in other jurisdictions) and have instituted and maintained, and will continue to maintain, policies and procedures reasonably designed to promote and achieve compliance with such laws and with the representations and warranties contained herein.

(vi) None of the Group will directly or indirectly use the proceeds of the Advances or lend, contribute or otherwise make available such proceeds to any subsidiary, Affiliate, joint venture partner or other person or entity for the purpose of financing or facilitating any activity that would violate applicable anti-corruption laws, rules, or regulations (including, without limitation, the United

States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar applicable legislation in other jurisdictions).

(bb) Steering Group. The funds and investment accounts listed in Schedule III represent all funds and investment accounts Affiliated with the Loan Parties that were lenders to the Loan Parties immediately prior to the Closing Date.

ARTICLE VII

COVENANTS

SECTION 7.01. Affirmative Covenants. Until a Repayment Event, each Loan Party covenants and agrees as follows:

(a) Compliance with Laws, Etc.

(i) Each Loan Party will (A) comply with all applicable laws, rules, regulations and orders of any Governmental Authority, such compliance to include, without limitation, compliance with all Environmental Laws and Mining Laws, ERISA and any Anti-Money Laundering Laws and all Governmental Authorizations, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect and (B) maintain and enforce policies and procedures with respect to itself and its Subsidiaries designed to ensure compliance with applicable Sanctions, anti-corruption laws and Anti-Money Laundering Laws.

(ii) Mepco and its Subsidiaries shall (A) comply, and make commercially reasonable efforts to cause all contractors, and lessees occupying its properties to comply, with all Environmental Laws and Mining Laws applicable to its operations and properties; obtain and renew all Environmental or Mining Permits required or reasonably necessary for its operations and the Mines; except, in each case with respect to this Section 7.01(a)(ii), to the extent the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; (B) promptly take any and all actions required by Governmental Authorities under Environmental or Mining Laws to (1) cure any violation of applicable Environmental Laws or Mining Laws that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (2) make an appropriate response to any Environmental Action against Mepco or any Mepco Subsidiary and discharge any obligations it may have to any Person thereunder where failure to do so would reasonably be expected have, individually or in the aggregate, a Material Adverse Effect; and (C) at all times maintain and preserve all property necessary for the normal conduct of its business and keep such property in good repair, working order and condition and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as expressly permitted by this Agreement); and cause the Mines to be operated and maintained in compliance with the terms and provisions of all Environmental or Mining Permits and in accordance with Prudent Coal Industry Practice;

in each case in this clause (C) except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(b) Taxes. Each Loan Party will:

(i) file all federal, state, local, foreign and other tax returns and reports required to be filed, and shall pay all federal, state, local, foreign and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those (A) which are being contested in good faith by appropriate proceedings for which adequate reserves in conformity with GAAP have been provided therefor or (B) with respect to which the failure to make such filing or payment could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(ii) not file or consent to the filing of any consolidated income tax return with any Person (other than Holdings (or any of Holdings' shareholders) or any other Loan Party).

(c) Hazardous Materials Activities, Etc. Except as otherwise could not reasonably be expected to have a Material Adverse Effect, each Loan Party shall promptly take any and all actions necessary to (i) cure any violation of applicable Environmental Laws or Mining Laws by such Loan Party, (ii) make an appropriate response to any Environmental Action against such Loan Party and discharge any obligations it may have to any Person thereunder and (iii) respond to any Release of Hazardous Materials by such Loan Party or by contractors, lessees, and other Persons occupying or using the Properties or the Mines to the extent required by Governmental Authorities under applicable Environmental Laws.

(d) Maintenance of Insurance. (i) The Loan Parties shall maintain compliance with the insurance requirements set forth in Schedule 7.01(d) (the "***Required Insurance***").

(e) Preservation of Corporate Existence, Etc. (i) Each Loan Party will preserve and keep in full force and effect its organizational existence and (ii) each Loan Party will preserve and keep in full force and effect all rights and franchises, licenses and permits material to its business, except with respect to sub-clause (ii) only, where the failure to so preserve and keep in full force and effect such rights, franchises, licenses and permits could not reasonably be expected to have a Material Adverse Effect, *provided that* any Loan Party may, at the Borrower's expense, change its name upon 15 Business Days' prior written notice to the Administrative Agent (or such shorter period of time reasonably acceptable to the Administrative Agent) and timely delivery to the Administrative Agent of all additional financing statements (executed if necessary for any particular filing jurisdiction) and other instruments and documents reasonably requested by the Administrative Agent to maintain the validity, perfection and priority of the security interests created under the Collateral Documents *provided that* any Loan Party may take the action described in Section 7.02(d) in accordance with requirements set forth therein.

(f) Visitation Rights. At any reasonable time and from time to time upon reasonable prior notice, each Loan Party will permit any of the Agents, to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, any of the Loan Parties and to discuss the affairs, finances and accounts of any of the Loan Parties with any of their officers or directors and with their independent certified public accountants; *provided* that, so long as no Default shall have occurred and be continuing, any such visit in excess of one such visit in any Fiscal Year shall be at the expense of the Administrative Agent.

(g) Keeping of Books. Each Loan Party will keep proper books of record and account, in which full, true and correct entries shall be made of all material financial transactions and the material assets and business of such Loan Party in accordance with GAAP in effect from time to time in all material respects and otherwise in compliance in all material respects with the regulations of any Governmental Authority having jurisdiction thereof.

(h) Obtain and Maintain Governmental Authorizations. Each Loan Party will obtain and maintain, in full force and effect, and meet all requirements in respect of any Governmental Authorizations necessary in the conduct of its business and operations and the transactions contemplated hereby, except in each case where failure to do so could not reasonably be expected to have a Material Adverse Effect.

(i) Maintenance of Properties, Etc. Each Loan Party will (i) maintain and preserve in good repair, working order and condition (ordinary wear and tear, casualty and condemnation excepted) its Properties (which Properties are useful and necessary in the business of such Loan Party) in accordance with Prudent Industry Practice or Prudent Coal Industry Practice, as the case may be, Contractual Obligations binding on it and applicable laws, (ii) make periodic overhauls and all needed or appropriate repairs, renewals, replacements, additions, betterments, Capital Expenditures and improvements which are necessary for the Properties that it owns or operates (which Properties are useful and necessary in the business of such Loan Party) in order to satisfy the requirements of applicable law, Governmental Authorizations and Contractual Obligations binding on it or to otherwise maintain Prudent Industry Practices, and (iii) otherwise ensure its operations and the operation of its Properties in a manner consistent with the Material Project Agreements binding on it (to the extent applicable) and Prudent Industry Practices, except in each case where failure to do so could not reasonably be expected to have a Material Adverse Effect.

(j) Ground Lease. Each applicable Loan Party shall (i) comply in all material respects with all terms and conditions of the Ground Lease, including obtaining the necessary consents and approvals from the Ground Lessor with respect to the Transactions contemplated hereunder and any contemplated alterations or construction at the Mortgaged Property and (ii) promptly deliver to Administrative Agent a copy of all notices of default or termination received from Ground Lessor under the Ground Lease.

(k) Further Assurances. Promptly upon request by any Agent, or any Lender Party through the Administrative Agent, each Loan Party will (i) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (ii) execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, conveyances, pledge agreements,

mortgages, deeds of trust, trust deeds, assignments, financing statements and continuations thereof, termination statements, notices of assignment, transfers, certificates, assurances and other instruments as any Agent, or any Lender Party through the Administrative Agent, may reasonably require from time to time in order to (A) carry out more effectively the purposes of the Loan Documents, (B) to the fullest extent permitted by applicable law, subject any of its Property (other than the Excluded Collateral) to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (C) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (D) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which such Loan Party is or is to be a party.

(l) Accounts. (i) Each Longview Party shall cause all Longview Revenues to be deposited into the Longview Revenue Account (and shall notify the counterparties to each material Contractual Obligation of the Longview Parties to make all payments under such Contractual Obligations directly to the Longview Revenue Account), and (ii) any Asset Sale Proceeds, Insurance Proceeds, Contract Termination Proceeds or Eminent Domain Proceeds to be applied in accordance with the Depositary Agreement. The Loan Parties shall open and maintain bank accounts only to the extent permitted and contemplated pursuant to the Depositary Agreement.

(m) Separateness. Each Loan Party shall:

(i) except as set forth in the Depositary Agreement, maintain Deposit Accounts or accounts, separate from those of any Affiliate (other than any of the Loan Parties) with commercial banking institutions and will not commingle their funds with those of any Affiliate (other than any of the Loan Parties);

(ii) act solely in its name and through its duly authorized officers, managers, representatives or agents in the conduct of its businesses;

(iii) conduct in all material respects its business solely in its own name, in a manner not misleading to other Persons as to its identity (without limiting the generality of the foregoing, all oral and written communications (if any), including invoices, purchase orders, and contracts);

(iv) obtain proper authorization from member(s), shareholder(s), director(s) and manager(s), as required by its limited partnership agreement, limited liability company agreement, general partnership agreement or bylaws for all of its limited liability company, limited partnership, general partnership or corporate actions; and

(v) comply in all material respects with the terms of its Organizational Documents.

(n) Maintenance of Credit Ratings. Each Loan Party will use commercially reasonable efforts to obtain and maintain ratings on the Term B Facility from each of Moody's

and S&P for so long as such rating agency is in the business of rating loans and securities of a type similar to the Term B Facility; *provided* that (i) the failure to obtain or maintain such rating shall not constitute a Default or an Event of Default to the extent the Loan Parties are using their commercially reasonable efforts to obtain and maintain such ratings and (ii) no Loan Party shall be required to maintain any minimum credit rating.

(o) Interest Rate Hedging. On or before the date that is ninety days following the Closing Date (or such later date as the Administrative Agent may otherwise agree), the Borrower shall have in effect and thereafter maintain at all times until the third anniversary of the Closing Date, Interest Rate Hedges with respect to a notional amount equal to at least 50% of the reasonably anticipated amount of Term B Advances (which anticipated amounts (i) shall be determined by reference to the Base Case Projections and (ii) shall take into account any scheduled or projected repayments or prepayments contemplated thereunder).

(p) Covenant to Give Security and Guaranty. Upon (x) the formation or acquisition of any new direct or indirect Subsidiary by any Loan Party that is otherwise permitted hereby or (y) the permitted acquisition of any Property (other than any Excluded Collateral and other than any real property with an aggregate fair market value of less than $2,000,000) by any Loan Party and such Property, in the reasonable judgment of the Administrative Agent, shall not already be subject to a perfected first priority (subject to Permitted Liens) security interest in favor of the Collateral Agent for the benefit of the Secured Parties, then in each case at the Borrower's expense:

(i) in connection with the formation or acquisition of such a Subsidiary, within 10 days after such formation or acquisition (or such later date as the Administrative Agent may otherwise agree), cause each such Subsidiary, and cause each direct and indirect parent of such Subsidiary (if it has not already done so), to duly execute and deliver to the Administrative Agent and the Collateral Agent (A) a guaranty or Guaranty Supplement, in the form of Exhibit I (each a "***Guaranty Supplement***") hereto or otherwise in form and substance reasonably satisfactory to the Administrative Agent, guaranteeing the other Loan Parties' obligations under the Loan Documents and (B) a supplement to the Pledge and Security Agreement in accordance with Annex I thereto;

(ii) within 10 days after such formation or acquisition (or such later date as the Administrative Agent may otherwise agree), furnish to the Administrative Agent and the Collateral Agent a description of the Real Estate Assets and personal properties of such Subsidiary or the Real Estate Assets and personal properties so acquired, in each case in detail necessary to perfect the Collateral Agent's Lien on such properties (other than the Excluded Collateral) as reasonably determined by the Administrative Agent;

(iii) within 60 days (or such later date as the Administrative Agent may otherwise agree) after (A) such acquisition of Property by any Loan Party, (1) duly execute and deliver, and cause such Loan Party to duly execute and deliver to the Administrative Agent and the Collateral Agent, mortgages, pledges, assignments, security agreement supplements, intellectual property security

agreements, intellectual property security agreement supplements and other security agreements as reasonably specified by, and in form and substance reasonably satisfactory to the Administrative Agent, securing payment of all of the obligations of the Loan Parties under the Loan Documents and constituting liens on all such Properties, and (2) deliver, upon the request of the Administrative Agent in its sole discretion, to the Administrative Agent with respect to such real property, mortgagee title insurance policies, Flood Certificates, surveys and engineering, soils and other reports, and environmental assessment reports, each in form and substance reasonably satisfactory to the Administrative Agent, *provided*, *however*, that to the extent that any Loan Party shall have otherwise received any of the foregoing items with respect to such Property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent, and (B) such formation or acquisition of any such new Subsidiary, duly execute and deliver and cause such Subsidiary and each Loan Party acquiring Capital Stock in such Subsidiary to duly execute and deliver to the Collateral Agent mortgages, pledges, assignments, security agreement supplements, intellectual property security agreements, intellectual property security agreement supplements and other security agreements as reasonably specified by, and in form and substance reasonably satisfactory to, the Administrative Agent, securing payment of all of the obligations of such Subsidiary or Loan Party, respectively, under the Loan Documents;

(iv) within 60 days of such formation or acquisition (or such later date as the Administrative Agent may otherwise agree), take, and cause each Loan Party and each newly acquired or newly formed Subsidiary to take, whatever action (including the recording of mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) may be necessary or advisable in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and subsisting Liens (subject to Permitted Liens) on the Properties purported to be subject to the mortgages, pledges, assignments, security agreement supplements, intellectual property security agreements, intellectual property security agreement supplements and security agreements delivered pursuant to this Section 7.01(p), enforceable against all third parties in accordance with their terms;

(v) within 60 days after such formation or acquisition (or such later date as the Administrative Agent may otherwise agree), deliver to the Collateral Agent, upon the request of the Administrative Agent in its reasonable discretion, a signed copy of a favorable opinion (containing customary exceptions and limitations), addressed to the Collateral Agent and the other Secured Parties, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to (A) the matters contained in clauses (i), (iii) and (iv) above, (B) such guaranties, guaranty supplements, mortgages, pledges, assignments, security agreement supplements, intellectual property security agreements, intellectual property security agreement supplements and security agreements being legal, valid and binding obligations of each Loan Party party thereto enforceable in

accordance with their terms, as to the matters contained in clause (iv) above, (C) such recordings, filings, notices, endorsements and other actions being sufficient to create valid perfected Liens on such properties, (D) corporate formalities and (E) such other matters as the Administrative Agent may reasonably request; and

(vi) at any time and from time to time, promptly execute and deliver, and cause each Loan Party and each newly acquired or newly formed Subsidiary to execute and deliver, any and all further instruments and documents and take, and cause each Loan Party and each newly acquired or newly formed Subsidiary to take, all such other action as the Administrative Agent may reasonably deem necessary or desirable in obtaining the full benefits of, or in perfecting and preserving the Liens (subject to Permitted Liens) of, such guaranties, mortgages, pledges, assignments, security agreement supplements, intellectual property security agreements, intellectual property security agreement supplements and security agreements.

(q) Material Project Agreements. Each Loan Party will perform and observe all material terms and provisions of each Material Project Agreement to be performed or observed by it, maintain each such Material Project Agreement to which it is a party in full force and effect, and enforce each such Material Project Agreement in accordance with its material terms (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents), in each case except where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of such definition).

(r) Conduct of Business. The Loan Parties shall operate, maintain and use the Business, and shall conduct their business, in each case in all material respects in accordance with Prudent Industry Practices or Prudent Coal Industry Practice, as the case may be.

(s) Maintenance of Regulatory Status. The Borrower shall maintain its status as an EWG and its MBR Authority, and shall comply with all material FERC requirements related to its EWG status and MBR Authority.

(t) PJM.

(i) The Loan Parties will cause the Borrower to (A) maintain its status as a "Capacity Market Seller" as such term is defined in the PJM Rules, eligible for participation in the PJM Auctions and (B) comply with all PJM Rules and other requirements that are applicable to the maximum participation of the Borrower within the PJM Markets.

(ii) The Loan Parties will cause the Borrower to comply in all material respects with all reporting and other requirements under the PJM Rules applicable to the sale and delivery of capacity, energy and ancillary services in the PJM Markets.

(u) Real Estate Post-Closing Obligations. Notwithstanding anything to the contrary contained herein (including, without limitation, Section 5.01(b)(ii),

(i) within 120 days of the Closing Date, the Administrative Agent shall have received those items required to be delivered by Dunkard Creek Water Treatment System, LLC pursuant to Section 5.01(b)(ii)(C) hereof; provided, however, that such survey shall only be required for the treatment facility and pumping stations utilized in connection with the Dunkard Creek water treatment facility; and

(ii) within 120 days of the Closing Date, the Administrative Agent shall have received Mortgages of the Real Estate Assets held by each of Mepco LLC, Coresco, LLC, Dana Mining Company, LLC and Dana Mining Company of Pennsylvania, LLC set forth on Schedule 5.01(b)(ii) hereof as required pursuant to Section 5.01(b)(ii) hereof, together with those items required to be delivered pursuant to Section 5.01(b)(ii)(A) (B) and (D) hereof; provided that no Mortgages or items required under Section 5.01(b)(ii)(A), (B) and (D) shall be required for any Mepco Excluded Property.

SECTION 7.02. Negative Covenants. Until a Repayment Event, each Loan Party covenants and agrees as follows:

(a) Liens, Etc. Such Loan Party will not create, incur, assume or suffer to exist any Lien on or with respect to any of its Properties whether now owned or hereafter acquired, except Permitted Liens.

(b) Debt. Such Loan Party will not create, incur, assume or suffer to exist any Debt, except (without duplication):

(i) Debt of the Loan Parties (A) under the Loan Documents, and (B) pursuant to any Permitted Refinancing Facility;

(ii) to the extent constituting Debt, obligations of the Loan Parties under the Permitted Secured Commodity Hedge and Power Sale Agreements to the extent permitted to be entered into under clause (m) below, and any guaranty of such obligations;

(iii) Debt secured by Liens permitted by clause (xv) of the definition of "Permitted Liens" not to exceed in the aggregate, when taken together with any outstanding Debt permitted to be incurred pursuant to sub-clause (iv), $20,000,000 in the aggregate for Mepco and its Subsidiaries and $5,000,000 in the aggregate for each of the other Loan Parties (other than Mepco and its Subsidiaries), in either case, at any time outstanding; *provided* that any such Debt (A) shall be secured only by the Property acquired in connection with the incurrence of such Debt and (B) shall constitute not more than 90% of the aggregate consideration paid with respect to such Debt;

(iv) Capitalized Leases not to exceed in the aggregate, when taken together with any outstanding Debt permitted to be incurred pursuant to sub-

clause (iii), $20,000,000 in the aggregate for Mepco and its Subsidiaries and $5,000,000 in the aggregate for each of the other Loan Parties (other than Mepco and its Subsidiaries), in either case, at any time outstanding;

(v) any Debt of any Loan Party as in effect on the Closing Date and are disclosed on Schedule II and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest (including any portion thereof which is payable in kind in accordance with the terms of such extended, renewed or replaced Indebtedness) and premium payable by the terms of such obligations thereon and reasonable fees and expenses associated therewith);

(vi) to the extent constituting Debt, obligations under Interest Rate Hedges designed to hedge against fluctuations in interest rates incurred in the ordinary course of business (it being acknowledged and agreed that any such Interest Rate Hedges entered into by the Loan Parties for the purpose of complying with Section 7.01(o) above shall be deemed to be permitted Debt under this sub-clause (vi));

(vii) Debt of any Loan Party to any other Loan Party, provided that any such Debt that is evidenced by a promissory note shall be delivered the Collateral Agent together with a customary allonge;

(viii) other unsecured Debt in an aggregate amount not to exceed $15,000,000 at any one time outstanding;

(ix) to the extent constituting Debt, contingent obligations under or in respect of performance bonds, bid bonds, appeal bonds, surety bonds, financial assurances and completion guarantees, indemnification obligations, obligations to pay insurance premiums, take or pay obligations, workers' compensation claims, letters of credit, bank guarantees and banker's acceptances, warehouse receipts and similar obligations in each case incurred in the ordinary course of business and not in connection with debt for borrowed money;

(x) to the extent constituting Debt, Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business; *provided* that such Debt is extinguished within 10 Business Days of its incurrence;

(xi) guaranties by a Loan Party of Debt of another Loan Party with respect to Debt otherwise permitted to be incurred pursuant to this clause (b); *provided* that, if the Debt that is being guaranteed is unsecured and/or subordinated to the Obligations of the Loan Parties under the Loan Documents, the guaranty shall also be unsecured and/or subordinated to the Obligations of the Loan Parties under the Loan Documents;

(xii) [Reserved];

(xiii) trade payables incurred in the ordinary course of business (but not for borrowed money) and (A) not more than 90 days past due or (B) being contested in good faith by appropriate proceedings;

(xiv) Debt consisting solely of obligations under Insurance Premium Financing Arrangements;

(xv) Debt arising from agreements providing for indemnification, adjustment of purchase price adjustments or similar obligations, in each case incurred in connection with the disposition of any business or assets permitted under this Agreement;

(xvi) to the extent constituting Debt, letters of credit issued (including reimbursement obligations in respect thereof) as credit support for commodity swaps, options or futures contracts or other similar contracts in each case permitted under Section 7.02(m); and

(xvii) Unsecured subordinated Debt in favor of Affiliates of the Borrower that are not Holdings or any of its Subsidiaries in an aggregate original principal amount not to exceed $20,000,000; provided that any such Debt pursuant to this clause (xvii) (A) shall have a final maturity date equal to or later than one hundred eighty (180) days after the Latest Maturity Date, (B) the Loan Parties and their Subsidiaries shall not be required to make any payment on account of the principal of, or interest on, or amounts otherwise owing in respect of such Unsecured subordinated Debt pursuant to this clause (xvii) prior to the date that is one hundred eighty (180) days after the Latest Maturity Date (other than payments in kind that provide for capitalization to principal), (C) provides for automatic extension of such Debt to the date that is one hundred eighty (180) days after the Latest Maturity Date in the event of any refinancing, amendment or extension hereunder that causes the Latest Maturity Date to change and (D) is otherwise subordinated on terms set forth in Schedule 7.02(b)(xvii) or other subordination terms reasonably acceptable to the Administrative Agent.

(c) Change in Nature of Business. (i) The Loan Parties will not engage in any business other than the direct or indirect development, expansion, ownership, operation, management, maintenance, use and or financing of the Business, the Transactions and the other transactions contemplated hereby and activities that are reasonably related or incidental thereto and (ii) Holdings will not engage in any business other than (A) the ownership of the Capital Stock in its Subsidiaries (including the payment of taxes and similar administrative expenses associated with being a holding company and the performance if its obligations and exercise of its rights under this Agreement and other Loan Documents to which it is a party); (B) engaging in any business or actions as otherwise required by law, (C) holding any Cash received in accordance with the terms hereof, (D) the issuance of securities and payment of dividends permitted hereunder and (E) any activities incidental to the foregoing.

(d) Fundamental Changes; Mergers, Etc. Such Loan Party will not change its legal form, liquidate or dissolve except that (i) any Subsidiary of the Borrower may liquidate or dissolve into its parent company (so long as the surviving entity is a Loan Party) and (ii) any Loan Party may change its (A) corporate name, (B) identity or corporate structure, (C) jurisdiction of organization or (D) Federal Taxpayer Identification Number subject to complying with Section 7.03(l). Such Loan Party will not merge into, consolidate with or acquire any Person or permit any Person to merge into it, except that: (I) any Subsidiary of a Loan Party may merge into or consolidate or amalgamate with the Borrower as long as the Borrower is the surviving entity, (II) any Subsidiary of a Loan Party may merge into or consolidate or amalgamate with any Loan Party (as long as (A) a Subsidiary that is a Loan Party is the surviving entity, (B) such surviving entity becomes a Loan Party substantially concurrently with the consummation of such transaction and complies with Section 7.01(p)) or (C) Mepco and its Subsidiaries may consummate any Investment permitted by Section 7.2(f).

(e) Sales, Etc. of Property. Such Loan Party will not sell, lease, transfer or otherwise Dispose of any Property, except:

(i) sales of (and the granting of any option or other right to purchase, lease or otherwise acquire) power (including energy and capacity), fuel, ancillary services, transmission or transportation rights, emission credits, gypsum, coal ash or other inventory or services in the ordinary course of its business;

(ii) sales, leases or subleases, transfers or other dispositions of real or personal Property that are obsolete, damaged, worn out, surplus or not used or useful in the business of the Loan Parties;

(iii) the liquidation, sale or use of Cash and Cash Equivalents;

(iv) sales or discounts without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(v) sales of Property of any Loan Party so long as (A) the purchase price paid to such Loan Party for such Property shall be no less than the fair market value (determined in good faith by the management of the Borrower) of such Property at the time of such sale, (B) the purchase price for such Property shall be paid to such Loan Party solely in Cash, and (C) the aggregate purchase price paid to all Loan Parties for such Property and all other Property sold since the Closing Date pursuant to this sub-clause (v) shall not exceed (x) $15,000,000 in the aggregate for Mepco and its Subsidiaries and (y) $3,000,000 in the aggregate for the Loan Parties (other than Mepco and its Subsidiaries);

(vi) transfers of condemned property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of property that have been subject to a

casualty to the respective insurer of such real property as part of an insurance settlement;

(vii) leases, subleases, licenses or sublicenses of property in the ordinary course of business and which do not materially interfere with the business of the Loan Parties;

(viii) amendments or modifications of any Contractual Obligation of such Loan Party and the related release of any credit support obligations thereunder pursuant to the terms of such amendment or modification that is not prohibited by Section 7.02(p);

(ix) to the extent constituting a Disposition, Permitted Liens;

(x) to the extent constituting a Disposition, Restricted Payments made pursuant to Section 7.02(g);

(xi) to the extent constituting a Disposition, the unwinding of any Swap Contract or cash management agreement;

(xii) for Mepco and its Subsidiaries, Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property, (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property, or (iii) such property is swapped in exchange for services or other assets of comparable or greater value or usefulness to the business of Mepco and its Subsidiaries as a whole, as determined in good faith by the management of the Borrower;

(xiii) to the extent constituting a Disposition, licensing and cross-licensing arrangements involving any technology or other intellectual property in the ordinary course of business; and

(xiv) transfers among Mepco and its Subsidiaries;

(xv) to the extent constituting a Disposition, abandonment, cancellation or disposition of any intellectual property in the ordinary course of business.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.02(e) to any Person other than a Loan Party, the Lien of the Collateral Agent in respect of such Collateral shall be released in accordance with Section 4.1 of the Intercreditor Agreement.

(f) Investments in Other Persons. Such Loan Party will not make or hold any Investment in any Person (including any Joint Venture), except:

(i) Investments in Cash and Cash Equivalents;

(ii) equity Investments owned as of the Closing Date in any Loan Party and Investments made after the Closing Date in any Loan Party;

(iii) Investments (A) in any Securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors and (B) deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of the Loan Party;

(iv) intercompany loans to the extent permitted under clause (b)(vii);

(v) Capital Expenditures permitted by clause (n) below;

(vi) loans and advances to officers, directors and employees of the Loan Parties made in the ordinary course of business in an aggregate principal amount not to exceed $2,000,000;

(vii) to the extent constituting Investments, Debt which is permitted under clause (b);

(viii) demand or Deposit Accounts with banks or other financial institutions;

(ix) to the extent constituting Investments, advances of payroll payments to employees in the ordinary course of business;

(x) Investments in deposit accounts to the extent permitted by the Depositary Agreement;

(xi) Permitted Investments

(xii) Repurchase retirement or repayment of any Debt of the Loan Parties incurred pursuant to Section 7.02(b)(viii) to the extent not otherwise prohibited by this Agreement;

(xiii) Investments consisting of or resulting from (i) Debt permitted under Section 7.02(b)(vii) and (ii) fundamental changes permitted by Section 7.02(e); and

(xiv) other Investments by Mepco or any of its Subsidiaries in an aggregate amount (valued at the time of the making thereof, and without giving effect to any write-downs or writeoffs thereof) not to exceed in any Fiscal Year the greater of $10,000,000; provided that Holdings and its Subsidiaries shall be in compliance, on a pro forma basis after giving effect to the making of such Investment, with the Financial Covenants recomputed as of the end of the fiscal quarter immediately prior to the date of such Investment for which financial statements have been delivered pursuant to Section 7.03.

(g) Restricted Payments. Holdings will not declare, order, pay, make or set apart or agree to declare, order, pay, make or set apart or agree to declare, order, pay, make or set apart, through any manner or means or through any other Person, directly or indirectly, any sum

for any Restricted Payment, except that Holdings shall be permitted to make Restricted Payments:

(i) with the proceeds of any Incremental Facility incurred under Section 2.08;

(ii) Holdings may pay for the repurchase, retirement or other acquisition or retirement for value of Securities of Holdings or any of its parent companies held by any present or former executive of Holdings or any Subsidiary of Holdings or equity based awards held by such Persons, in each case, upon the death, disability, retirement or termination of employment of any such Person or pursuant to any executive equity plan, executive stock option plan or any other executive benefit plan or any agreement (including any stock subscription or shareholder agreement) with any executive of Holdings or any Subsidiary of Holdings; provided, that the aggregate amount of Restricted Payments made pursuant to this clause (ii) shall not exceed (i) $4,000,000 in the aggregate during the term of this Agreement;

(iii) to the extent constituting a Restricted Payment, any Restricted Payment of Debt permitted pursuant to Section 7.02(b)(viii); and

(iv) solely on the Closing Date, the Closing Date Distribution.

For the avoidance of doubt, payment of "Operating & Maintenance Expenses" shall not constitute a Restricted Payment prohibited by this Section 7.02(g).

(h) Amendments of Organizational Documents. Such Loan Party will not amend any of its Organizational Documents, other than amendments that could not be reasonably expected to have a Material Adverse Effect.

(i) Accounting Changes. Such Loan Party will not make or permit any change in (i) accounting policies or reporting practices, except as required by GAAP and except for any changes which are not materially adverse to the Lender Parties, or (ii) Fiscal Year.

(j) No Further Negative Pledges. Such Loan Party will not enter into or permit to exist any agreement prohibiting the creation or assumption of any Lien upon any of its Properties, whether now owned or hereafter acquired, except for (i) (A) the Transaction Documents, (B) agreements or documents governing, evidencing and/or securing Permitted Refinancing Facilities, or (C) other Contractual Obligations in effect as of the date hereof (or any replacements, renewals or substitutions thereof to the extent no more onerous or restrictive than the provision applicable under the relevant Transaction Document or Contractual Obligations being replaced, renewed or substituted), (ii) restrictions under any Permitted Refinancing Facility, (iii) customary restrictions in Contractual Obligations in respect of specific Property encumbered to secure payment of particular Debt (to the extent permitted to be incurred pursuant to the terms of the Loan Documents) or to be sold pursuant to an executed agreement with respect to a permitted Asset Sale and (iii) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in agreements, leases, licenses, subleases and sublicenses and similar agreements as contemplated by the definition of "Excluded Collateral" (provided that such restrictions are limited to the property or assets secured by such

Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be).

(k) Sales and Leasebacks. Such Loan Party will not, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety, with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Loan Party (i) has sold or transferred or is to sell or to transfer to any other Person (other than any Loan Party), or (ii) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Loan Party to any Person (other than any Loan Party) in connection with such lease.

(l) Partnerships, Etc. Such Loan Party will not become a general partner in any general or limited partnership or Joint Venture.

(m) Speculative Transactions. Such Loan Party will not engage in any transaction involving commodity swaps, options or futures contracts or any similar transactions (including take-or-pay contracts, long term fixed price off take contracts and contracts for the sale of power on either a financial or physical basis) other than in the ordinary course of business and not for speculative purposes (it being acknowledged and agreed that Permitted Trading Activities shall be deemed to be in compliance with this clause (m)).

(n) Capital Expenditures. The Loan Parties shall not purchase, acquire or lease any assets that, if acquired, would constitute Capital Expenditures, other than: (i) Required Capital Expenditures, (ii) Capital Expenditures or other investments in improvements necessary or useful for the Business in an aggregate amount for each Fiscal Year not to exceed the Capex Limit for such Fiscal Year; *provided* that such Capital Expenditures shall be deemed to be made, first, from any Capex Carryover Amount for such Fiscal year, second, from the Capex Base Allowance for such Fiscal Year and, third, from any Capex Pullback Amount for such Fiscal Year; (iii) Major Maintenance Expenses funded through amounts on deposit in the Major Maintenance Account; and (iv) Permitted Investments.

(o) Transactions with Affiliates. Such Loan Party will not enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms not substantially less favorable to the applicable Loan Party as would be obtainable by such Loan Party at the time in a comparable arm's length transaction with a Person other than an Affiliate; *provided* that the foregoing restriction shall not apply to: (i) reasonable fees and compensation paid to and indemnities provided for or on behalf of all officers, directors, employees or consultants of the Loan Parties as determined in good faith by the Borrower's senior management, (ii) Restricted Payments made in accordance with the terms of this Agreement, (iii) transactions between the Loan Parties, (iv) Dispositions pursuant to Section 7.02(e)(v) and (v) transactions described on Schedule 7.02(o).

(p) Material Project Agreement.

(i) The Loan Parties shall not cause, consent to, or permit, any amendment to, modification, variance, impairment, assignment or replacement of, or

waiver of timely compliance with, any terms or conditions of any Material Project Agreement in a manner that that could reasonably be expected to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents); and

(ii) The Loan Parties shall not cause, consent to, or permit, any cancellation or termination (except for a termination that occurs automatically in accordance with the express terms of such agreement) of (x) any Material Project Agreement to the extent such cancellation or termination could reasonably be expected to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents).

(iii) The Loan Parties shall not cause, consent to, or permit, any amendment to, modification, variance, impairment, assignment or replacement of, or waiver of timely compliance with, any terms or conditions of the Coal Supply Agreement in a manner that could reasonably be expected to have a Material Adverse Effect.

(q) Prepayments, Etc., of Debt. Such Loan Party will not prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any Debt that is expressly subordinated to the Obligations hereunder in rights of payment except as permitted by the terms of the subordination provisions relating to such Debt.

(r) Sanctions and FCPA, Etc. None of the Loan Parties shall directly or indirectly use the proceeds of any Borrowing for any purpose that would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, or other similar applicable legislation in other jurisdictions or directly or indirectly use the proceeds of any Borrowing, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, (i) to fund any activities of or business with any individual or entity that, at the time of such funding, is (A) the subject of Sanctions or (B) in any Designated Jurisdiction, in each case in violation of any Sanctions or (ii) in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the financing transaction contemplated by this Agreement, whether as Lender, Arranger, Administrative Agent or otherwise) of Sanctions.

(s) Ground Lease. None of the Loan Parties shall terminate, amend or modify or permit the termination, amendment or modification of the Ground Lease in any material respect.

SECTION 7.03. Reporting Requirements. Until a Repayment Event, the Loan Parties covenant and agree that they will furnish to the Administrative Agent (for itself and the Lender Parties):

(a) Notice of Default and Material Adverse Effect. Within five days after the occurrence of each Default or any event, development or occurrence which, in the Borrower's reasonable judgment, has had, or would reasonably be expected to have, a Material Adverse Effect continuing on the date of such statement, a statement of the Financial Officer of the

Borrower setting forth details of such Default, event, development or occurrence and the action that the Borrower has taken and proposes to take with respect thereto.

(b) Quarterly Financials. Within 60 days in the case of each Fiscal Quarter after the end of each of the first three Fiscal Quarters of each Fiscal Year, the Consolidated balance sheet of Holdings and its Subsidiaries as at the end of such Fiscal Quarter and the related Consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case and (commencing with the financial statements relating to the Fiscal Quarter ending March 31, 2015) in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the Budget for the current Fiscal Year, all in reasonable detail, together with a certificate of a Financial Officer of the Borrower.

(c) Annual Financial Statements. (x) Within 150 days the case of the Fiscal Year ending December 31, 2014 and (y) within 120 days after the end of each other Fiscal Year, the Consolidated balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related statements of income, stockholders' equity and cash flows of the Loan Parties and the related Consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such Fiscal Year, setting forth in each case (commencing with the financial statements relating to the Fiscal Year ending December 31, 2014) in comparative form the corresponding figures for the previous Fiscal Year and the corresponding figures from the Budget for the Fiscal Year covered by such financial statements, in reasonable detail, together with a Financial Officer Certification with respect thereto; and (iii) with respect to the financial statements described in clauses (i) and (ii) a report thereon of KPMG or other independent certified public accountants of recognized national standing selected by the Borrower or other public accountants reasonably satisfactory to the Administrative Agent (which report shall be unqualified as to going concern and scope of audit (other than any such exception or explanatory paragraph that is expressly solely with respect to, or expressly resulting solely from, (A) an upcoming maturity date under the credit facilities provided for herein that is scheduled to occur within one year from the time such opinion is delivered or (B) any potential inability to satisfy any financial covenants set forth in any agreement, document or instrument governing or evidencing Debt (including those set forth in Section 7.04) on a future date or in a future period), and shall state that such financial statements fairly present, in all material respects, the financial position of the Borrower or the Loan Parties, as the case may be, as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards).

(d) Compliance Certificate. Together with each delivery of financial statements of the Loan Parties pursuant to clauses (b) and (c), a duly executed and completed Compliance Certificate.

(e) Annual Budget. No later than 30 days prior to the commencement of any Fiscal Year, an annual budget, prepared on a quarterly basis for such Fiscal Year and prepared in a manner consistent with the Initial Operating Budget (with respect to each such Fiscal Year, the

"***Budget***"), which Budget shall be certified by a Financial Officer of the Borrower as having been prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time made.

(f) Operating Statements and Reports. The Borrower shall furnish to the Administrative Agent no later than 60 days after the end of each Fiscal Quarter of the Borrower, a quarterly operating report of the Business during such Fiscal Quarter reflecting (i) revenue, fuel, emissions and operating data for the Business, (ii) the actual level of dispatch, capacity factors or similar operating and performance data for the Business, (iii) a summary of the operating and maintenance costs and improvement costs incurred during such Fiscal Quarter with a comparison to budgeted amounts for such costs for the Business and (iv) management discussion of operating performance for the Business, which report shall be certified by a Responsible Officer of the Borrower as being true and correct in all material respects.

(g) Litigation. Promptly upon any officer of the Borrower obtaining knowledge of (i) the institution of, or non-frivolous threat of, any Adverse Proceeding not previously disclosed in writing by the Borrower to the Administrative Agent and the Lender Parties, or (ii) any material development in any Adverse Proceeding that, in the case of either sub-clause (i) or (ii), could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof.

(h) Agreement Notices, Etc. (i) Promptly upon execution thereof, copies of any Permitted Secured Commodity Hedge and Power Sale Agreements that are secured by a Lien on the Collateral entered into by any Loan Party, and copies of any subsequent material amendments, modifications or waivers of any of the foregoing.

(ii) Promptly upon receipt or delivery thereof, copies of all material written notices, written requests and other documents received or provided by any Loan Party in respect of any (i) breach or default under or pursuant to any Material Project Agreement or any Hedge Agreement or (ii) any force majeure event.

(i) ERISA. (i) Promptly upon becoming aware of the occurrence of any ERISA Event, a written notice specifying the nature thereof, what action the Loan Parties or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the IRS, the Department of Labor or the PBGC with respect thereto; and (ii) to the extent requested in writing by the Administrative Agent, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates with the IRS with respect to each Pension Plan; (2) all notices received by the Loan Parties or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning a potential ERISA Event; and (3) copies of such other documents or governmental reports or filings relating to any Pension Plan as the Administrative Agent shall reasonably request.

(j) Environmental and Mining Matters. (i) Promptly upon the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported to any Governmental Authority under any Environmental Law except as otherwise could not

reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding $10,000,000 ("***Material Environmental Amount***"), (B) any remedial action taken or required to be taken pursuant to any Environmental Law by any Loan Party or any other Person in response to (1) any Hazardous Materials Activities the occurrence of which has a reasonable possibility of resulting in one or more Environmental Actions except as otherwise could not reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding the Material Environmental Amount, or (2) any Environmental Actions except as otherwise could not reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding the Material Environmental Amount, (C) the Borrower's discovery of any occurrence or condition at or on the Real Estate Assets or any real property adjoining or in the vicinity of the Real Estate Assets that could cause the Real Estate Assets or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Law, (D) any Environmental Action with respect to the Project except as otherwise could not reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding the Material Environmental Amount and (E) any request for information from any Governmental Authority that suggests such authority is investigating whether any of the Loan Parties may be potentially responsible for any Hazardous Materials Activity except as otherwise could not reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding the Material Environmental Amount.

(ii) Prompt written notice describing in reasonable detail the occurrence of any accidents, explosions, implosions, collapses or flooding at or otherwise related to the Mines that could reasonably be expected to, directly or indirectly, result in (i) any fatality, (ii) the trapping of any Person in the Mines for more than 24 hours or (iii) any Environmental Action, except for any such Environmental Action that could not reasonably be expected to result in a liability, obligation, cost, expense, or Required Capital Expenditure exceeding the Material Environmental Amount.

(iii) Prompt written notice describing in reasonable detail any matter or occurrence that could reasonably be expected to result in an injunction or the issuance of any closure order pursuant to any Mining Law or pursuant to any Environmental or Mining Permit that could reasonably be expected to directly or indirectly result in the closure or cessation of operation of the Mines for a period of more than 30 consecutive days.

(iv) At least annually, a written report describing in reasonable detail the status of any matter for which notice has been provided pursuant to Sections 7.03(j)(i-iii) except for matters that have been resolved and the resolution thereof has been previously reported. Upon request, the Administrative Agent (or its designated representative) shall be entitled to review copies of relevant reports, audits, analyses or communications relating to matters for which notice has been provided pursuant to Section 7.03(j)(i) unless the Borrower has reasonably determined that provision of such document would jeopardize an applicable attorney-client or work product privilege pertaining to such document. In such cases, the Loan Parties shall not be required to provide copies of any such

privileged documents but shall provide the Administrative Agent with a notice identifying the document and generally describing its contents.

(v) Prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by any of the Loan Parties that could reasonably be expected to expose any of the Loan Parties to, or result in, Environmental Actions except as otherwise could not reasonably be expected to have a Material Adverse Effect, (B) any proposed purchase, acquisition, or sale of Emission Allowances except as otherwise could not reasonably be expected to have a Material Adverse Effect, or (C) any proposed action to be taken by the Borrower or any of its Subsidiaries to modify current operations in a manner that could reasonably be expected to subject the Borrower or any of its Subsidiaries to any additional obligations or requirements under any Environmental Laws, except as otherwise could not reasonably be expected to exceed the Material Environmental Amount.

(k) Insurance, Etc. (i) Within 30 days after the expiration of each policy (or such longer period as the Administrative Agent may agree), a certificate of insurance or letter of confirmation from the Loan Parties' insurance broker to the effect that insurance satisfying the requirements of the Loan Documents is in full force and effect and that all premiums then due in respect of such insurance have been paid.

(ii) Promptly after the occurrence thereof, notice of any Casualty Event or Event of Eminent Domain affecting any Loan Party, whether or not insured, through fire, theft, other hazard, casualty or otherwise involving a probable loss of $2,000,000 or more.

(iii) Promptly after receipt thereof, copies of any cancellation or receipt of written notice of threatened cancellation of any property damage insurance required to be maintained under Section 7.01(d).

(l) Information Regarding Collateral. Prompt written notice of any change in a Loan Party's (i) corporate name, (ii) identity or corporate structure, (iii) jurisdiction of organization or (iv) Federal Taxpayer Identification Number. The Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code or otherwise that are reasonably required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral to the extent contemplated in the Collateral Documents.

(m) OFAC.

(i) If the Borrower obtains actual knowledge or receives any written notice that any Loan Party or any Person holding any legal or beneficial interest whatsoever therein (whether directly or indirectly) is named on the OFAC SDN List (such occurrence, an "***OFAC Violation***"), the Borrower shall immediately (i) give written notice to the Administrative Agent of such OFAC Violation, and (ii) comply with all

applicable laws with respect to such OFAC Violation (regardless of whether the party included on the OFAC SDN List is located within the jurisdiction of the United States of America), including the OFAC laws, and the Borrower hereby authorizes and consents to the Administrative Agent taking any and all steps each deems necessary, in its sole discretion, to comply with all applicable laws with respect to any such OFAC Violation, including the requirements of the OFAC laws (including the "freezing" and/or "blocking" of assets and reporting such action to OFAC).

(ii) The Borrower shall provide the Administrative Agent with any information regarding the Loan Parties requested by the Administrative Agent and necessary for the Lender Parties to comply with all Anti-Money Laundering Laws.

(n) Calls with Lenders. The Borrower shall arrange to have a telephonic conference call with the Lender Parties (i) once within a reasonable period of time after delivery of financial statements for the Fiscal Quarter ending June 30, 2015 pursuant to Section 7.03(b), (ii) once within a reasonable period of time after delivery of financial statements for the Fiscal Year ending December 31, 2015 pursuant to Section 7.03(c) and (iii) within a reasonable period of time after delivery of financial statements for any other Fiscal Year, once during such Fiscal Year thereafter, in each case which shall be coordinated with the Administrative Agent during normal business hours upon reasonable prior notice to the Lenders, to discuss the status of the Project and the affairs, finances and accounts of the Loan Parties.

(o) Other Information. Such other information respecting the business, condition (financial or otherwise), operations, performance or Properties (including information on insurance coverage) of any Loan Party or Business as any Agent may from time to time reasonably request; provided that no Loan Party will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) in respect of which disclosure to any Agent or any Lender (or their representatives or contractors) is prohibited by law, fiduciary duty or any binding agreement.

SECTION 7.04. Financial Covenant. Until a Repayment Event, the Borrower covenants and agrees that it will:

(a) Debt Service Coverage Ratio. Maintain as of the last day of any Fiscal Quarter (beginning with the Fiscal Quarter ended December 31, 2016), a Debt Service Coverage Ratio of not less than 1.10:1.00.

(b) Right to Cure Financial Covenant. (i) Notwithstanding anything to the contrary contained in clause (a), if the Borrower fails to comply with the requirements of the covenant set forth in clause (a) (the "***Financial Covenant***"), then until the 10th calendar day after delivery of the related certificate pursuant to Section 7.03(b) or (c), the Borrower shall have the right to receive cash contributions to its equity from the parent companies of Holdings, directly or indirectly, in an aggregate amount equal to the amount that, if added to Longview Revenues for the relevant Measurement Period, would have been sufficient to cause compliance with the Financial Covenant for such Measurement Period (an "***Equity Cure***").

(ii) The Borrower shall give the Administrative Agent written notice (the "***Cure Notice***") of an Equity Cure on or before the day the Equity Cure is consummated. The Borrower shall not be entitled to exercise the Equity Cure more than two times within any consecutive four Fiscal Quarters or more than five times in total.

(iii) Upon the delivery by the Borrower of a Cure Notice, no Default or Event of Default shall be deemed to exist pursuant to the Financial Covenant (and any such Default or Event of Default shall be retroactively considered not to have existed or occurred). If the Equity Cure is not consummated within 10 days after delivery of the related certificate pursuant to Section 7.03(b) or (c), each such Default or Event of Default shall be deemed reinstated.

(iv) The cash amount received by the Borrower pursuant to exercise of the right to make an Equity Cure shall be added to Longview Revenues for the last quarter of the immediately preceding Measurement Period solely for purposes of recalculating compliance with the Financial Covenant for such Measurement Period and of calculating the Financial Covenant as of the end of the next three following Measurement Periods; except as set forth in this Section 7.04(b) and the definition of "Longview Revenues", the Equity Cure may not be used in any other calculation for purposes of any provision under this Agreement. For the avoidance of doubt, an Equity Cure shall be deemed to be made on the last Business Day of the relevant Measurement Period even if such Equity Cure is made after such date.

ARTICLE VIII

EVENTS OF DEFAULT

SECTION 8.01. Events of Default. Each of the following events or occurrences shall constitute an "***Event of Default***"***:***

(a) (i) the Borrower shall fail to pay any principal of any Advance when the same shall become due and payable, (ii) the Borrower shall fail to pay any interest on any Advance within three Business Days after the same shall become due and payable, or (iii) any Loan Party shall fail to make any other payment under any Loan Document to which it is party within five Business Days after the same shall become due and payable; or

(b) any representation or warranty made by any Loan Party (or any of its officers) under or in connection with any Loan Document to which it is a party (including any certificate delivered pursuant to Article V or Section 7.03) shall prove to have been incorrect in any material respect when made; *provided* that, if (i) such Loan Party was not aware that such representation or warranty was false or incorrect at the time such representation or warranty was made, (ii) the fact, event or circumstance resulting in such false or incorrect representation or warranty is capable of being cured, corrected or otherwise remedied, and (iii) such fact, event or circumstance resulting in such false or incorrect representation or warranty shall have been cured, corrected or otherwise remedied within 30 days (or if such incorrect representation or

warranty is not susceptible to cure within 30 days, and such Loan Party is proceeding with diligence and in good faith to cure such default and such default is susceptible to cure, such 30 day cure period shall be extended as may be necessary to cure such incorrect representation or warranty, such extended period not to exceed 90 days in the aggregate (inclusive of the original 30-day period)) from the date a Responsible Officer of any Loan Party obtains knowledge thereof, such false or incorrect representation or warranty shall not constitute a Default or an Event of Default for purposes of the Loan Documents; or

(c) any Loan Party shall fail to perform or observe any term, covenant or agreement contained in Section 4.09, clause (d), (e), (f), (l), (n), (o), (s) or (v) of Section 7.01, Section 7.02, clause (a) of Section 7.03 or Section 7.04 (subject to the Borrower's rights under clause (b) thereof); or

(d) any Loan Party shall fail to perform or observe any term, covenant or agreement contained in clause (a), (b), (c) or (d) of Section 7.03 and such failure shall remain unremedied for 30 days after the earlier of the date on which (i) any Responsible Officer of a Loan Party becomes aware of such failure or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender Party; or

(e) any Loan Party shall fail to perform or observe any other term, covenant or agreement contained in any Loan Document on its part to be performed or observed and such failure shall remain unremedied for 30 days after the earlier of the date on which (i) any Responsible Officer of such Person becomes aware of such failure or (ii) written notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender Party; *provided* that, (A) if such failure does not involve the payment of money to any Person and is not susceptible to cure within such 30 days, (B) such Person is proceeding with diligence and good faith to cure such default and such default is susceptible to cure and (C) the existence of such failure has not resulted in a Material Adverse Effect, such 30 day period shall be extended as may be necessary to cure such failure, such extended period not to exceed 90 days in the aggregate (inclusive of the original 30-day period); or

(f) subject to the last paragraph of this Section 8.01, (i) any Loan Party shall fail to pay any principal of, premium or interest on or any other amount payable in respect of any debt for borrowed money of such Loan Party that is outstanding in a principal amount of at least $15,000,000 either individually or in the aggregate for all such Persons (but excluding Debt outstanding hereunder) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace or cure period, if any, specified in the agreement or instrument relating to such debt for borrowed money; or (ii) any Loan Party is in default in the performance of or compliance with any term of, or other event shall occur or condition shall exist under, any agreement or instrument relating to any such debt for borrowed money and such default, non-compliance or other event shall continue after the applicable grace or cure period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate the maturity of such debt for borrowed money or otherwise to cause such debt for borrowed money to mature; or

(g) subject to the last paragraph of this Section 8.01, any Loan Party shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against any Loan Party seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it) that is being diligently contested by it in good faith, either such proceeding shall remain undismissed or unstayed for a period of 90 days or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or any substantial part of its property) shall occur; or any Person shall take any corporate action to authorize any of the actions set forth above in this clause (g); or

(h) any judgments or orders, either individually or in the aggregate, for the payment of money in excess of $15,000,000 shall be rendered against any Loan Party or any of their respective Subsidiaries and there shall be any period of 90 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(i) any non-monetary judgment or order shall be rendered against any Loan Party or any of their respective Subsidiaries or the Business that has resulted in a Material Adverse Effect, and there shall be any period of 90 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) any provision of any Loan Document after delivery thereof pursuant to Section 5.01 or Section 7.01(p) shall for any reason (except as the result of act or omission of the Agents or the other Secured Parties) cease to be valid and binding on or enforceable against any Loan Party party to it, or any such Loan Party shall so state in writing; or

(k) any Collateral Document or financing statement after delivery thereof pursuant to Section 5.01 or Section 7.01(p) shall for any reason (other than pursuant to the terms thereof or as a result of action taken by any Agent or any other Secured Party) cease to create a valid and perfected first priority lien on and security interest in the Collateral to the extent contemplated hereby or thereby (other than in respect of Collateral with a fair market value of less than $15,000,000 in the aggregate); or

(l) a Change of Control shall occur; or

(m) (i) there shall occur one or more ERISA Events which individually or in the aggregate results in liability of any Loan Party and if such liability, together with all other such liabilities, is reasonably likely to result in a Material Adverse Effect; or (ii) a Lien under Section 430(k) of the Internal Revenue Code or under ERISA has been imposed on the Collateral, any Loan Party, or any Employee Benefit Plan, and such Lien, together with all other such Liens, would reasonably be likely to result in a Material Adverse Effect; or

(n) any Event of Abandonment shall occur; or

(o) (i) any Material Project Agreement is terminated prior to the expiration pursuant to the terms thereof or (ii) any counterparty to any Material Project Agreement shall materially breach, or be in material default (beyond any applicable grace or cure periods) under, or shall repudiate any of the Material Project Agreements; provided that no such event shall be an Event of Default if (A) such breach or default is cured within the lesser of 90 days and the cure period permitted under the applicable Material Project Agreement with respect to such default or (B) such event could not reasonably be expected to have a Material Adverse Effect (after giving effect to any Replacement Project Agreement entered into in accordance with the terms of the Loan Documents);

then, and in any such event, and for so long as such Event of Default shall exist, the Administrative Agent (i) shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, declare the Commitments of each Lender Party and the obligation of each Lender Party to make Advances and of the Issuing Banks to issue Letters of Credit to be terminated, whereupon the same shall forthwith terminate, and (ii) shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, declare the Advances, all interest thereon and all other amounts payable under this Agreement and the other Loan Documents to be forthwith due and payable, whereupon the Advances, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; *provided* that, upon the occurrence of an Event of Default described in clause (g), (x) the Commitments of each Lender Party and the obligation of each Lender Party to make Advances and of the Issuing Banks to issue Letters of Credit shall automatically be terminated and (y) the Advances, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower.

The Required Lenders by written notice to the Administrative Agent may on behalf of the Lenders waive an existing Default or Event of Default and its consequences hereunder. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Agreement; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. The Required Lenders, by written notice to the Administrative Agent, may on behalf of all of the Lenders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal or interest that has become due solely because of the acceleration) have been cured or waived.

SECTION 8.02. Actions in Respect of the Letters of Credit upon Default. If any Event of Default shall have occurred and be continuing, the Administrative Agent may, or shall at the request of the Required Lenders, irrespective of whether it is taking any of the actions described in Section 8.01 or otherwise, or if the Advances have been declared due and payable as provided in Section 8.01, make demand upon the Borrower to, and forthwith upon such demand the Borrower will, Cash Collateralize the Available Amount of all outstanding Letters of Credit as of such date in an amount equal to the Minimum Collateral Amount *plus* any accrued and unpaid

interest thereon; *provided* that upon the occurrence of an Event of Default under Section 8.01(g) relating to the Borrower, the Borrower shall be obligated to Cash Collateralize the Available Amount of all outstanding Letters of Credit as of such date in an amount equal to the Minimum Collateral Amount *plus* any accrued and unpaid interest thereon, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower. If at any time any Issuing Bank determines that any funds held in any Controlled Account are subject to any right or claim of any Person other than the Issuing Bank or its agent or depositary or that the total amount of such funds is less than Minimum Collateral Amount, the Borrower will, forthwith upon demand by such Issuing Bank, pay to such Issuing Bank, as additional funds to be deposited and held in such Controlled Account, an amount equal to the excess of (a) the Minimum Collateral Amount of all Letters of Credit issued by the applicable Issuing Bank then outstanding in respect of such Issuing Bank ***over*** (b) the total amount of funds, if any, then held in such Controlled Account that such Issuing Bank determines to be free and clear of any such right and claim. Any amounts received by the Administrative Agent in respect of the L/C Exposure pursuant to Section 8.01 may be held as Cash Collateral for the obligation of the Borrower to reimburse the relevant Issuing Bank in event of any drawing under any Letter of Credit (and the Borrower hereby grants to the Administrative Agent a security interest in such Cash Collateral). In the event any Letter of Credit in respect of which the Borrower have deposited Cash Collateral with the Administrative Agent is canceled or expires, the Cash Collateral shall be applied (i) *first* to the reimbursement of the relevant Issuing Bank (or all of the applicable Revolving Lenders, as the case may be) for any drawings thereunder, and (ii) *second* to the payment of any outstanding Obligations of the Borrower hereunder or under any other Loan Document.

ARTICLE IX

THE AGENTS

SECTION 9.01. Appointment of Agents. Each of the Lenders and the Issuing Banks hereby irrevocably appoints Morgan Stanley to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and neither the Borrower nor any other Loan Party shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

SECTION 9.02. Rights of Lenders. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its

individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

SECTION 9.03. Exculpatory Provisions.

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may affect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.05 and 8.01), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower, a Lender or an Issuing Bank.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or

other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article V or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 9.04. Reliance by Administrative Agent. The Administrative 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 (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Advance, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Advance or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), 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.

SECTION 9.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facilities as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

SECTION 9.06. Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Banks and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank with an office in New York, New York. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment

within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "***Resignation Effective Date***"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date. If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "***Removal Effective Date***"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(b) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Banks under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and Issuing Bank directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.02 shall continue in effect for the benefit of such retiring or removed Administrative 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 the retiring or removed Administrative Agent was acting as Administrative Agent.

(c) Any successor or supplemental Administrative Agent, shall deliver, on or prior to the date that it becomes a party to this Agreement, to the Borrower two duly completed copies of (i) IRS Form W-8IMY (or successor form) certifying that it is a "U.S. branch" and that the payments it receives for the account of others are not effectively connected with the conduct of a trade or business in the United States and that it is using such form as evidence of its agreement with the Borrower to be treated as a U.S. Person with respect to such payments (and the Borrower and the Administrative Agent agree to so treat the Administrative Agent as a U.S. Person with respect to such payments as contemplated by Treasury Regulation Section 1.1441-

1(b)(2)(iv)(A)), with the effect that the Borrower can make payments to the Administrative Agent without deduction or withholding of any Taxes imposed by the United States, (ii) IRS Form W-8BEN-E certifying its status as a qualified intermediary, or (iii) IRS Form W-9 certifying its status as a U.S. Person and exempt from U.S. federal backup withholding.

SECTION 9.07. Non-Reliance on Administrative Agent and Other Lenders. Each Lender and Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 9.08. Withholding Taxes. To the extent required by applicable law, the Administrative Agent may withhold from any payment to any Lender Party an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 4.06, each Lender Party shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within 15 days after demand therefor, any and all Taxes and related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Taxes from amounts paid to or for the account of such Lender Party for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender Party failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of applicable withholding Taxes ineffective). A certificate as to the amount of such payment or liability delivered to any Lender Party by the Administrative Agent shall be conclusive absent manifest error. Each Lender Party hereby authorizes the Administrative Agent to set off and apply any and all amounts owing to such Lender under the Loan Documents against any amount due to the Administrative Agent under this Section 9.08. The agreements in this Section 9.08 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender Party, and the repayment, satisfaction or discharge of all other Obligations. This Section 9.08 shall not impose any additional responsibility on the Loan Parties.

SECTION 9.09. Administrative Agent May File Proof of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Advance or L/C Commitment shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) 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 Advances, L/C Commitments and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Sections 3.06 and 11.02) allowed in such judicial proceeding; and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 11.02.

SECTION 9.10. Collateral Matters.

(a) The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion, to instruct the Collateral Agent:

(i) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (x) upon termination of all Commitments and payment in full of all Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Bank shall have been made), (y) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under the Loan Documents, or (z) subject to Section 11.05, if approved, authorized or ratified in writing by the Required Lenders; or

(ii) to release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to instruct the Collateral Agent to release its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

(b) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's

Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

ARTICLE X

GUARANTY

SECTION 10.01. Guaranty; Limitation of Liability.

(a) Each Guarantor, jointly and severally, hereby absolutely, unconditionally and irrevocably guarantees, as a primary obligor and not merely a surety, and as a guaranty of payment and not merely as a guaranty of collection, the punctual payment when due, whether at scheduled maturity or on any date of a required prepayment or by acceleration, demand or otherwise, of all Obligations of each other Loan Party now or hereafter existing under or in respect of the Loan Documents (including any extensions, modifications, substitutions, amendments or renewals of any or all of the foregoing Obligations), whether direct or indirect, absolute or contingent, and whether for principal, interest, premiums, fees, indemnities, contract causes of action, costs, expenses or otherwise except all Excluded Swap Obligations (such Obligations being the "***Guaranteed Obligations***"), and agrees to pay any and all expenses (including fees and expenses of counsel) incurred by the Administrative Agent or any other Lender Party in enforcing any rights under this Guaranty or any other Loan Document. Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by any other Loan Party to any Lender Party under or in respect of the Loan Documents but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving such other Loan Party.

(b) Each Guarantor, and by its acceptance of this Guaranty, the Administrative Agent and each other Lender Party, hereby confirms that it is the intention of all such Persons that this Guaranty and the Obligations of each Guarantor hereunder not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar foreign, federal or state law to the extent applicable to this Guaranty and the Obligations of each Guarantor hereunder. To effectuate the foregoing intention, the Administrative Agent, the other Lender Parties and the Guarantors hereby irrevocably agree that the Obligations of each Guarantor under this Guaranty at any time shall be limited to the maximum amount as will result in the Obligations of such Guarantor under this Guaranty not constituting a fraudulent transfer or conveyance.

(c) Each Guarantor hereby unconditionally and irrevocably agrees that in the event any payment shall be required to be made to any Lender Party under this Guaranty or any other guaranty, such Guarantor will contribute, to the maximum extent permitted by law, such amounts to each other Guarantor and each other Guarantor so as to maximize the aggregate amount paid to the Lender Parties under or in respect of the Loan Documents.

SECTION 10.02. Guaranty Absolute. Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless

of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of any Lender Party with respect thereto. The Obligations of each Guarantor under or in respect of this Guaranty are independent of the Guaranteed Obligations or any other Obligations of any other Loan Party under or in respect of the Loan Documents, and a separate action or actions may be brought and prosecuted against each Guarantor to enforce this Guaranty, irrespective of whether any action is brought against the Borrower or any other Loan Party or whether the Borrower or any other Loan Party is joined in any such action or actions. The liability of each Guarantor under this Guaranty shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other Obligations of any other Loan Party under or in respect of the Loan Documents, or any other amendment or waiver of or any consent to departure from any Loan Document, including any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Loan Party or otherwise;

(c) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of, or consent to departure from, any other guaranty, for all or any of the Guaranteed Obligations;

(d) any manner of application of Collateral or any other collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Guaranteed Obligations or any other Obligations of any Loan Party under the Loan Documents or any other Property of any Loan Party;

(e) any change, restructuring or termination of the corporate structure or existence of any Loan Party;

(f) any failure of any Lender Party to disclose to any Loan Party any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Loan Party now or hereafter known to such Lender Party (each Guarantor waiving any duty on the part of the Lender Parties to disclose such information);

(g) the failure of any other Person to execute or deliver this Agreement, or any other guaranty or agreement or the release or reduction of liability of any Guarantor or other guarantor or surety with respect to the Guaranteed Obligations; or

(h) any other circumstance (including any statute of limitations) or any existence of or reliance on any representation by any Lender Party that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any other guarantor or surety.

This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by any Lender Party or any other Person upon the insolvency, bankruptcy or reorganization of the Borrower or any other Loan Party or otherwise, all as though such payment had not been made.

SECTION 10.03. Waivers and Acknowledgments.

(a) Each Guarantor hereby unconditionally and irrevocably waives promptness, diligence, notice of acceptance, presentment, demand for performance, notice of nonperformance, default, acceleration, protest or dishonor and any other notice with respect to any of the Guaranteed Obligations and this Guaranty and any requirement that any Lender Party protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Loan Party or any other Person or any Collateral.

(b) Each Guarantor hereby unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

(c) Each Guarantor hereby unconditionally and irrevocably waives (i) any defense arising by reason of any claim or defense based upon an election of remedies by any Lender Party that in any manner impairs, reduces, releases or otherwise adversely affects the subrogation, reimbursement, exoneration, contribution or indemnification rights of such Guarantor or other rights of such Guarantor to proceed against any of the other Loan Parties, any other guarantor or any other Person or any Collateral and (ii) any defense based on any right of set-off or counterclaim against or in respect of the Obligations of such Guarantor hereunder.

(d) Each Guarantor acknowledges that the Collateral Agent may, without notice to or demand upon such Guarantor and without affecting the liability of such Guarantor under this Guaranty, foreclose under any mortgage by nonjudicial sale, and each Guarantor hereby waives any defense to the recovery by the Collateral Agent and the other Secured Parties against such Guarantor of any deficiency after such nonjudicial sale and any defense or benefits that may be afforded by applicable law.

(e) Each Guarantor hereby unconditionally and irrevocably waives any duty on the part of any Lender Party to disclose to such Guarantor any matter, fact or thing relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Loan Party now or hereafter known by such Lender Party.

(f) Each Guarantor acknowledges that it will receive substantial direct and indirect benefits from the financing arrangements contemplated by the Loan Documents and that the waivers set forth in Section 10.02 and this Section 10.03 are knowingly made in contemplation of such benefits.

SECTION 10.04. Subrogation. Each Guarantor hereby unconditionally and irrevocably agrees not to exercise any rights that it may now have or hereafter acquire against the Borrower, any other Loan Party or any other insider guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Obligations under or in respect of this Guaranty or any other Loan Document, including any right of subrogation, reimbursement, exoneration,

contribution or indemnification and any right to participate in any claim or remedy of any Lender Party against the Borrower, any other Loan Party or any other insider guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from the Borrower, any other Loan Party or any other insider guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations and all other amounts payable under this Guaranty shall have been paid in full in cash, all Letters of Credit shall have expired or been terminated and the Commitments shall have expired or been terminated. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the latest of (a) the payment in full in cash of the Guaranteed Obligations and all other amounts payable under this Guaranty, (b) the Term B Facility Maturity Date, and (c) the latest date of expiration or termination of all Letters of Credit, such amount shall be received and held in trust for the benefit of the Lender Parties, shall be segregated from other property and funds of such Guarantor and shall forthwith be paid or delivered to the Administrative Agent in the same form as so received (with any necessary endorsement or assignment) to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Guaranty, whether matured or unmatured, in accordance with the terms of the Loan Documents, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under this Guaranty thereafter arising. If (i) any Guarantor shall make payment to any Lender Party of all or any part of the Guaranteed Obligations, (ii) all of the Guaranteed Obligations and all other amounts payable under this Guaranty shall have been paid in full in cash, (iii) the Term B Facility Maturity Date shall have occurred, and (iv) all Letters of Credit shall have expired or been terminated, the Lender Parties will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment made by such Guarantor pursuant to this Guaranty.

SECTION 10.05. Subordination. Each Guarantor hereby subordinates any and all debts, liabilities and other Obligations owed to such Guarantor by each other Loan Party (the "***Subordinated Obligations***") to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 10.05:

(a) Prohibited Payments, Etc. Each Guarantor may receive regularly scheduled payments from any other Loan Party on account of the Subordinated Obligations; *provided* that, from and after the occurrence during the continuance of any Event of Default, no Guarantor shall demand, accept or take any action to collect any payment on account of the Subordinated Obligations.

(b) Prior Payment of Guaranteed Obligations. In any proceeding under the Bankruptcy Code or any other Debtor Relief Laws relating to any other Loan Party, each Guarantor agrees that the Lender Parties shall be entitled to receive payment in full in cash of all Guaranteed Obligations (including all interest and expenses accruing after the commencement of a proceeding under the Bankruptcy Code or any other Debtor Relief Laws, whether or not constituting an allowed claim in such proceeding ("***Post-Petition Interest***")) before such Guarantor receives payment of any Subordinated Obligations.

(c) Turn-Over. After the occurrence and during the continuance of any Event of Default, each Guarantor shall, if the Administrative Agent so requests, collect, enforce and receive payments on account of the Subordinated Obligations as trustee for the Lender Parties and deliver such payments to the Administrative Agent on account of the Guaranteed Obligations (including all Post-Petition Interest), together with any necessary endorsements or other instruments of transfer, but without reducing or affecting in any manner the liability of such Guarantor under the other provisions of this Guaranty.

(d) Collateral Agent Authorization. After the occurrence and during the continuance of an Event of Default, the Collateral Agent is authorized and empowered (but without any obligation to so do), in its discretion, (i) in the name of each Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated Obligations and to apply any amounts received thereon to the Guaranteed Obligations (including any and all Post-Petition Interest), and (ii) to require each Guarantor (A) to collect and enforce, and to submit claims in respect of, the Subordinated Obligations and (B) to pay any amounts received on such obligations to the Administrative Agent for application to the Guaranteed Obligations (including any and all Post-Petition Interest).

SECTION 10.06. Continuing Guaranty; Assignments. This Guaranty is a continuing guaranty and shall (a) remain in full force and effect until a Repayment Event, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by the Lender Parties and their successors, transferees and assigns. Without limiting the generality of clause (c) of the immediately preceding sentence, any Lender Party may assign or otherwise transfer all or any portion of its rights and obligations under this Agreement (including all or any portion of its Commitments, the Advances owing to it, and any Note or Notes held by it) to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to such Lender Party herein or otherwise, in each case as and to the extent provided in Section 11.06. No Guarantor shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lender Parties.

SECTION 10.07. Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Guarantor to honor all of its obligations to the Secured Parties under the Guaranty and the Collateral Documents in respect of Obligations which constitute Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 10.07 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 10.07, or otherwise under this Guaranty or the Collateral Documents, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 10.07 shall remain in full force and effect until a Discharge of Credit Facility Obligations (as defined in the Intercreditor Agreement). Each Qualified ECP Guarantor intends that this Section 10.07 constitute, and this Section 10.07 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(i) if to the Borrower or any other Loan Party, to it at Longview Power, LLC, c/o GenPower Services, LLC, 966 Crafts Run Road, Maidsville, WV 26541, Attention: Jeffery L. Keffer (Facsimile No. [___]; Telephone No. [___]);

(ii) if to the Administrative Agent, to it as its address (or facsimile number) set forth in Schedule 11.01(a);

(iii) if to an Issuing Bank, to it at its address (or facsimile number) set forth in its Administrative Questionnaire;

(iv) if to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or Issuing Bank pursuant to Article II if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the

deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; *provided* that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) Change of Address, etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

(i) Each Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Banks and the other Lenders by posting the Communications on Intralinks, Syndtrak or a substantially similar electronic transmission system (the "***Platform***")**.**

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "***Agent Parties***") have any liability to the Borrower or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's, any Loan Party's or the Administrative Agent's transmission of communications through the Platform. "***Communications***" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section 11.01, including through the Platform.

SECTION 11.02. Expenses, Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (limited in the case of legal fees to the reasonable and documented out-of-pocket fees and disbursements of one firm of counsel, plus (if applicable) one local counsel in each appropriate U.S. jurisdiction), in connection with the syndication of the Facilities, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof, (ii) all reasonable and documented out-of-pocket expenses incurred by any Issuing Bank in

connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or any Issuing Bank (limited in the case of legal fees to the reasonable and documented out-of-pocket legal expenses of one firm of counsel for the Administrative Agent, the Lender s and the Issuing Banks, collectively, plus (if applicable) one local counsel in each appropriate local jurisdiction for all such persons and, in the case of a conflict of interest between such persons, one additional counsel in each relevant jurisdiction to each group of such affected persons similarly situated taken as a whole), in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section 11.02.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an "***Indemnitee***") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, investigations, inquiries, liabilities and related reasonable and documented out-of-pocket costs, expenses (limited in the case of legal fees to the reasonable and documented fees, charges and disbursements of any one firm of counsel for the Administrative Agent, any Lender or any Issuing Bank collectively, (if applicable) one local counsel in each appropriate jurisdiction for all such persons and, in the case of a conflict of interest between such persons, one additional counsel in each relevant jurisdiction to each group of such affected persons similarly situated taken as a whole), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party), other than by such Indemnitee and its Related Parties, arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Advance or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials with respect to the Project, the Mines, or otherwise on or from any Real Estate Asset or any actual or alleged violation of Environmental Law or Mining Law or Environmental Action related in any way to Holdings or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for a material breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and non-appealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 11.02(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); *provided* that with respect to such unpaid amounts owed to any Issuing Bank solely in its capacity as such, only the Lenders shall be required to pay such unpaid amounts, such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) *provided*, *further*, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such Issuing Bank in connection with such capacity. The obligations of the Lenders under this paragraph (c) are subject to the provisions of Section 2.02(b).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Advance or Letter of Credit, or the use of the proceeds thereof. No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section 11.02 shall be payable promptly, but in any event, not later than ten days after demand therefor.

(f) Survival. Each party's obligations under this Section 11.02 shall survive the termination of the Loan Documents and payment of the obligations hereunder.

(g) Break-Funding. If for any reason (i) any prepayment or other principal payment of, or any Conversion of, any Eurodollar Rate Advance is made by the Borrower to or for the account of a Lender on a date prior to the last day of the Interest Period applicable to such Eurodollar Rate Advance, including, without limitation, pursuant to Section 4.08(b), (ii) the Borrower fails to make any payment or prepayment of a Eurodollar Rate Advance for which a notice of prepayment has been given or that is otherwise required to be made or (iii) a Borrowing of a Eurodollar Rate Advance does not occur on the date specified therefor in the relevant Funding Notice or telephonic request for Borrowing, or a Conversion to or continuation of any Eurodollar Rate Advance does not occur on the date specified therefor in the relevant Conversion/Continuation Notice or telephonic request for Conversion or continuation, the

Borrower shall, in each case and upon demand by such Lender (with a copy of such demand to the Administrative Agent), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional out-of-pocket and documented losses, costs or expenses that it may reasonably incur as a result thereof, including any out-of-pocket and documented loss, cost or expense (including any interest paid or payable by such Lender to Lenders of funds borrowed by it to make or carry its Eurodollar Rate Advances and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds but excluding loss of anticipated profits and losses for which no reasonable means of calculation exists).

SECTION 11.03. Cash Collateral. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 4.11(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(a) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of L/C Commitments, to be applied pursuant to clause (b) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Banks as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 11.03 or Section 4.11 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Revolving Commitments and L/C Advances (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 11.03 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and each Issuing Bank that there exists excess Cash Collateral; *provided* that, subject to Section 4.11 the Person providing Cash Collateral and each Issuing Bank may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

SECTION 11.04. Set-Off. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency, but excluding all payroll, trust, and Tax withholding accounts) at any time held, and other obligations (in whatever currency) at any time owing, by such Lender, such Issuing Bank or any such Affiliate, to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, Issuing Bank or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such Issuing Bank different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 4.11 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section 11.04 are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 11.05. Amendments and Waivers.

(a) Required Lenders' Consent. No amendment, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall in any event be effective without the written concurrence of the Required Lenders (other than an amendment, modification, termination or waiver made pursuant to the terms of Section 2.08, Section 4.10, Section 4.11(a)(i) and Sections 11.05(b), (c) and (d)).

(b) Affected Lender Parties' Consent. Without the written consent of each Lender (other than, in the case of (x) below, a Defaulting Lender) that would be directly and adversely affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the scheduled final maturity of any Advance or Note;

(ii) waive, reduce or postpone any scheduled mandatory repayment pursuant to Section 2.03(a) (but not prepayment);

(iii) extend the stated expiration date of any Letter of Credit beyond the Revolving Facility Maturity Date;

(iv) reduce the rate of interest on any Advance or any fee or any premium payable to such Lender hereunder (other than, in each case, any waiver of any increase in the interest rate applicable to any Advance pursuant to Section 4.02 or any other amount hereunder);

(v) extend the time for payment of any such interest or fees to such Lender;

(vi) reduce the principal amount of any Advance or any reimbursement obligation in respect of any Letter of Credit;

(vii) amend, modify, terminate or waive any provision of this Section 11.05(b), 11.05(c) or any other provision of this Agreement that expressly provides that the consent of all Lender Parties is required;

(viii) amend the definition of "*Required Lenders"* or *"Pro Rata Share*"; *provided* that, with the consent of the Required Lenders, additional extensions of credit pursuant hereto may be included in the definition of *"Required Lenders*" or *"Pro Rata Share*" on substantially the same basis as the Advances and Commitments are included on the Closing Date; *provided* that notwithstanding anything to the contrary contained herein, the Borrower shall be permitted to effect non-pro rata paydowns of the Advances in connection with assignments to Borrower-Related Parties or to the Borrower made in accordance with Section 11.06(f) or 11.06(g), as applicable, and to the extent necessary in order to implement Section 3.07(c);

(ix) release all or substantially all of the Collateral or all or substantially all of the Guarantors from the Guaranty except as expressly provided in the Loan Documents (including Section 7.02(e)); or

(x) consent to the assignment or transfer by any Loan Party of any of its rights and obligations under any Loan Document (other than to the extent already permitted hereunder).

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall:

(i) increase any Revolving Commitment of any Lender over the amount thereof then in effect without the consent of such Lender; *provided* that no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall constitute an increase in any Revolving Commitment of any Lender;

(ii) without the consent of the Required Lenders and the consent of Lenders holding a majority of the Commitments or Advances outstanding under such

Facility, (A) change the order of application of any reduction in the Commitments or any prepayment of Advances among the Facilities from the application thereof set forth in the applicable provisions of Section 2.04 of this Agreement, in any manner that disproportionately affects the Lender Parties differently from the other Lender Parties or other Secured Parties or (B) otherwise disproportionately affect the obligation of the Borrower to make any payment of the Advances to the Lender Parties from other Lender Parties or other Secured Parties; *provided* that the Required Lenders may waive, in whole or in part, any prepayment so long as the application as between Facilities, of any portion of such prepayment which is still required to be made is not altered;

(iii) amend, modify, terminate or waive the provisions governing the reimbursement of Letters of Credit as provided in Section 3.04 without the written consent of the Administrative Agent and of the applicable Issuing Bank; or

(iv) amend, modify, terminate or waive any provision of Article IX as the same applies to any Agent or the Depositary, or any other provision hereof of any Loan Document as the same applies to the rights, powers, privileges or obligations of any such Agent or the Depositary, in each case without the consent of such Agent or the Depositary, as applicable.

(d) Amendments to Cure Ambiguities, Defects, etc. Notwithstanding the other provisions of this Section 11.05, (x) each Fee Letter may be amended by the parties thereto without the consent of any Lender Party, (y) the Loan Parties, the Administrative Agent and an Issuing Bank may (but shall have no obligation to) amend or supplement the Loan Documents (including Schedule I hereto) without the consent of any other Lender Party in order to amend the provisions governing the Letters of Credit that affect such Issuing Bank and do not affect any other Lender Party and (z) the Borrower, Holdings, or any other Loan Party, the Collateral Agent (at the direction of the Administrative Agent) and the Administrative Agent may (but shall have no obligation to) amend or supplement the Loan Documents without the consent of any Lender Party: (i) to cure any ambiguity, defect or inconsistency, (ii) to make any change that would provide any additional rights or benefits to the Lender Parties, (iii) to make, complete or confirm any grant of Collateral permitted or required by this Agreement or any of the Collateral Documents or any release of any Collateral that is otherwise permitted under the terms of this Agreement and the Collateral Documents, (iv) by means of any Joinder Agreement to the extent expressly contemplated by Section 2.08 or 4.10 or (v) to implement Section 4.10, 4.11 or a Permitted Refinancing Facility.

(e) Execution of Amendments, etc. The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender Party, execute amendments, modifications, waivers or consents on behalf of such Lender Party. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 11.05 shall be binding upon each Lender Party at the time outstanding, each future Lender Party and, if signed by a Loan Party, on such Loan Party.

SECTION 11.06. Successors and Assigns; Participations.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Advances at the time owing to it); *provided* that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Advances at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Advances outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Advances of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $1,000,000, in the case of any assignment in respect of the Revolving Facility, or $1,000,000, in the case of any assignment in respect of the Term B Facility, unless each of the Administrative Agent and, so long as no Default or Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Advance or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (v) the assignment occurs prior to the earlier of the completion of primary syndication of the Term B Facility and the 60th day after the Closing Date, (w) an Event of Default under clauses (a) or (g) of Section 8.01 has occurred and is continuing at the time of such assignment, (x) such assignment of Term B Commitments or Term B Advances is to a Term B Lender, an Affiliate of a Term B Lender or an Approved Fund or (y) such assignment of Revolving Commitments or L/C Advances is to a Revolving Lender, an Affiliate of a Revolving Lender or an Approved Fund; *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof and provided, further, that the Borrower's consent shall not be required in connection with the primary syndication of the Facilities;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (x) any Facility or any unfunded Commitments with respect to such Facility if such assignment is to a Person that is not a Lender with a Commitment in respect of such Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender, or (y) any Advances to a Person who is not a Lender, an Affiliate of a Lender, an Approved Fund or, in the case of Term Advances, an Affiliated Debt Fund or Steering Group Member; and

(C) the consent of each Issuing Bank shall be required for any assignment in respect of the Revolving Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 paid by the assigning Lender (or the assignee); *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) any natural Person, (B) any Defaulting Lender or any of its Subsidiaries or

(C) a Disqualified Institution; *provided* that no Agent shall have any responsibility or liability for monitoring the list or identities of, or enforcing provisions relating to, Disqualified Institutions.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable Pro Rata Share of Advances previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Advances and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 4.04 and 11.02 with respect to facts and circumstances occurring prior to the effective date of such assignment; *provided*, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in New York, New York, a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Advances owing to, each Lender pursuant to the terms hereof from time to time (the "***Register***"). No assignment shall be effective unless it has been recorded in the

Register as provided in this Section 11.06(c). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. This Section 11.06(c) shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, a Disqualified Institution, or Holdings or any of Holdings' Affiliates or Subsidiaries) (each, a "***Participant***") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Advances owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent, the Issuing Banks and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 4.06(e) with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver with respect to provisions relating to amendments requiring unanimous consent of the Lenders that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 4.04, 11.02(g) and 4.06 (subject to the requirements and limitations therein, including the requirements under Section 4.06(g)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant (A) agrees to be subject to the provisions of Section 4.08(b) as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 4.04 or 4.06, with respect to any participation, than its participating Lender would have been entitled to receive. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 4.08(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.04 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 4.07 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Advances or other obligations under the Loan Documents (the "***Participant Register***"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in

any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank having jurisdiction over such Lender; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Assignments to Borrower-Related Parties. To the extent that any Borrower-Related Party holds Term B Advances (which shall not exceed more than 25% of the aggregate outstanding amount of Term B Advances being held by Borrower-Related Parties), no such Borrower-Related Party, in its capacity as Lender, shall (i) have any voting or approval rights whatsoever under the Loan Documents (including, without limitation, for purposes of any action requiring the approval of "Required Lenders" or pursuant to Section 11.05) other than with respect to those matters (x) set forth in Section 11.05(b) to the extent such Borrower-Related Party is a Lender affected thereby or (y) that disproportionately affects such Borrower-Related Party in its capacity as a Lender as compared to the effect of such matters on the other Lenders, (ii) be permitted to require any Agent or any other Lender to undertake any action (or refrain from taking any action) pursuant to or with respect to the Loan Documents, (iii) be permitted to, in its capacity as a Lender, attend any meeting or conference call with any Agent, any Lender Party or any Loan Party, receive any information from any Agent, any Lender Party or any Loan Party or have any rights of inspection or access relating to any Loan Party or (iv) be permitted to make or bring any claim, in its capacity as Lender, against any Agent or any Lender Party with respect to the duties and obligations of such Person under the Loan Documents. Notwithstanding anything to the contrary set forth herein (including Section 4.07), each applicable Borrower-Related Party shall be entitled, in their respective sole discretion, to cancel or retire any Term B Advances held by any Borrower-Related Party. Notwithstanding the foregoing, any Borrower-Related Party (other than Holdings and its Subsidiaries) shall be entitled to any consent or similar fee payable to the Required Lenders in connection with any amendment, supplement, waiver or other modification requiring Required Lenders' consent.

(g) Assignments to the Borrower. Notwithstanding anything to the contrary contained in this clause (g) or any other provision of this Agreement, each Lender shall have the right at any time to sell, assign or transfer all or a portion of its Term B Advances owing to it to Holdings, the Borrower or a Borrower-Related Party on a non-*pro rata* basis, subject to the following limitations:

(i) the Borrower-Related Party may conduct one or more modified Dutch auctions (each, an "***Auction***") to repurchase all or any portion of the Term B Advances; *provided* that (A) notice of the Auction shall be made to the Appropriate Lenders in accordance with their Pro Rata Shares and (B) the Auction shall be conducted pursuant to such procedures as the Administrative Agent may establish which are consistent with this clause (g) and the Auction Procedures set forth on Schedule 11.06(g) and are otherwise reasonably acceptable to the Borrower and the Administrative Agent;

(ii) with respect to all repurchases made by Holdings or any of its Subsidiaries (but not any other Borrower-Related Party) pursuant to this clause (g), (A) no Event of Default shall have occurred and be continuing or result therefrom, (B) such Loan Party shall deliver to the Administrative Agent a certificate stating that no Event of Default has occurred and is continuing or would result from such repurchase, (C) the Borrower shall not use the proceeds of any Working Capital Advances or L/C Advances to acquire such Term B Advances and (D) the assigning Lender and the Borrower-Related Party shall execute and deliver to Administrative Agent an Assignment and Assumption; and

(iii) following repurchase by Holdings or any of its Subsidiaries (but not any other Borrower-Related Party) pursuant to this clause (g), the Term B Advances so repurchased shall, without further action by any Person, be deemed cancelled for all purposes and no longer outstanding (and may not be resold by the Borrower), for all purposes of this Agreement and all other Loan Documents, including, but not limited to (A) the making of, or the application of, any payments to the Lenders under this Agreement or any other Loan Document, (B) the making of any request, demand, authorization, direction, notice, consent or waiver under this Agreement or any other Loan Document or (C) the determination of Required Lenders, or for any similar or related purpose, under this Agreement or any other Loan Document. In connection with any Term B Advances repurchased and cancelled pursuant to this clause (g), the Administrative Agent is authorized to make appropriate entries in the Register to reflect any such cancellation.

SECTION 11.07. Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

SECTION 11.08. Survival of Representations, Warranties and Agreements. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 4.04, 4.06, 11.02, 11.03 and 11.04 and the agreements of Lender Parties set forth in Sections 4.07, 9.03, 11.02(c) and 4.06(e) shall survive the payment of the Advances, the cancellation or expiration of the Letters of Credit and the reimbursement of any amounts drawn thereunder, and the termination hereof.

SECTION 11.09. No Waiver; Remedies Cumulative. No failure or delay on the part of any Agent or any Lender Party in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to each Agent and each Lender Party hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Loan Documents or any of the Hedge Agreements or Commodity Hedge and Power Sale Agreements. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

SECTION 11.10. Marshalling; Payments Set Aside. Neither any Agent nor any Lender Party shall be under any obligation to marshal any assets in favor of any Loan Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Loan Party makes a payment or payments to the Administrative Agent or the Lender Parties (or to the Administrative Agent, on behalf of the Lender Parties), or any Agent or Lender Party enforces any security interests or exercise its rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

SECTION 11.11. Severability. In case any provision in or obligation hereunder or under any other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 11.12. Obligations Several; Independent Nature of Lender Parties' Rights. The obligations of the Lender Parties hereunder are several and no Lender Party shall be responsible for the obligations or Commitment of any other Lender Party hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lender Parties pursuant hereto or thereto, shall be deemed to constitute the Lender Parties as a partnership, an association, a Joint Venture or any other kind of entity. The amounts payable at any time hereunder to each Lender Party shall be a separate and independent debt, and each Lender Party shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender Party to be joined as an additional party in any proceeding for such purpose.

SECTION 11.13. Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.14. Governing Law; Jurisdiction, Etc..

(a) Governing Law. This Agreement and the other Loan Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York.

(b) Jurisdiction. The Borrower and each other Loan Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, any Issuing Bank, or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Lender or any Issuing Bank may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any other Loan Party or its properties in the courts of any jurisdiction.

(c) Waiver of Venue. The Borrower and each other Loan Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section 11.14. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 11.01. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

SECTION 11.15. Waiver Of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO

REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 11.16. Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Banks agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (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 required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any 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, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Facilities or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Facilities; (h) with the consent of the Borrower; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 11.16, or (y) becomes available to the Administrative Agent, any Lender, any Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any other Loan Party relating to Holdings, the Borrower or any other Loan Party or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by the Borrower or any other Loan Party; *provided* that, in the case of information received from the Borrower or any other Loan Party 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 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 11.17. Usury Savings Clause. Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or

fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Advances made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Advances made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lender Parties and the Borrower to conform strictly to any applicable usury laws. Accordingly, if any Lender Party contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender Party's option be applied to the outstanding amount of the Advances made hereunder or be refunded to the Borrower.

SECTION 11.18. Counterparts; Integration; Effectiveness; Electronic Execution.

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 5.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 11.19. Patriot Act. Each Lender Party and the Administrative Agent (for itself and not on behalf of any Lender Party) hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that

identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender Party or Administrative Agent, as applicable, to identify such Loan Party in accordance with the Patriot Act.

SECTION 11.20. No Other Duties. Anything herein to the contrary notwithstanding, the neither the Joint Lead Arrangers nor the Joint Bookrunners listed on the cover page hereof shall not have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Bank hereunder. For the avoidance of doubt, each of the parties hereto acknowledge that KKR Capital Markets LLC and KKR Corporate Lending LLC are Affiliates of KKR Credit Advisors (US) LLC, one of the Steering Group Members.

SECTION 11.21. Collateral Agent and Depositary. With reference to the role of the Collateral Agent and Depositary in this Agreement and any other Loan Document, all of the rights, privileges, protections and indemnities of the Collateral Agent and Depositary set forth in the Depositary Agreement shall apply in accordance with the terms thereof.

[*SIGNATURE PAGES FOLLOW*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

BORROWER:

LONGVIEW POWER, LLC

By: _____
Name:
Title:

GUARANTORS:

LONGVIEW INTERMEDIATE HOLDINGS C, LLC

By: _____
Name:
Title:

MEPCO HOLDINGS, LLC

By: _____
Name:
Title:

MEPCO INTERMEDIATE HOLDINGS A, LLC

By: _____
Name:
Title:

MEPCO INTERMEDIATE HOLDINGS, LLC

By: _____
Name:
Title:

MEPCO, LLC

By: _____
Name:
Title:

CORESCO, LLC

By: _____
Name:
Title:

DANA MINING COMPANY OF PENNSYLVANIA, LLC

By: _____
Name:
Title:

DANA MINING COMPANY, LLC

By: _____
Name:
Title:

MEPCO CONVEYOR, LLC

By: _____
Name:
Title:

SHANNOPIN MATERIALS, LLC

By: _____
Name:
Title:

BORDER ENERGY, LLC

By: _____
Name:
Title:

ALTERNATE ENERGY, LLC

By: _____
Name:
Title:

DCWTS HOLDINGS, LLC

By: _____
Name:
Title:

DUNKARD CREEK WATER TREATMENT SYSTEM, LLC

By: _____
Name:
Title:

GENPOWER SERVICES, LLC

By: _____
Name:
Title:

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent and Term B Lender

By: _____
Name:
Title:

MORGAN STANLEY BANK, N.A., as a
Revolving Lender and an Issuing Bank

By: _____
Name:
Title:

KKR CORPORATE LENDING LLC, as a Lender
and as a Revolving Lender,

By: _____
Name:
Title:

THIRD AVENUE FOCUSED CREDIT FUND, as a Lender and as a Revolving Lender
By: Third Avenue Trust

By: _____
Name:
Title: