IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	**Chapter 11**
GAVILAN RESOURCES, LLC,	§	**Case No. 20-32656 (DRJ)**
Debtors.[1]	§	**(Jointly Administered)**

DEBTORS' WITNESS AND EXHIBIT LIST FOR HEARING
ON JUNE 9, 2020 AT 11:00 A.M. (PREVAILING CENTRAL TIME)

Gavilan Resources, LLC and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the "**Debtors**") filed this witness and exhibit list (the "**Witness and Exhibit List**") for the video/telephonic hearing before the Honorable David R. Jones scheduled for June 9, 2020, at 11:00 a.m. (Prevailing Central Time) (the "**Hearing**"):

WITNESSES

The Debtors may call any of the following witnesses at the Hearing:

1. David E. Roberts, Jr., Chief Executive Officer, Gavilan Resources, LLC;
2. Kevin Bonebrake, Managing Director, Lazard;
3. Any witness called or listed by any other party; and
4. Any rebuttal witness.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Gavilan Resources, LLC (6688); Gavilan Resources HoldCo, LLC (6425); Gavilan Resources Holdings, LLC (4496); and Gavilan Resources Management Services, LLC (3961). The Debtors' mailing address is 920 Memorial City Way, Suite 1400, Houston, Texas 77024.

EXHIBITS

The Debtors may offer into evidence any one or more of the following exhibits:

Debtors Exhibit No.	DESCRIPTION	OFFERED	OBJECTION	ADMITTED	DATE
1.	Declaration of David E. Roberts, Jr. in Support of the Debtors Chapter 11 Petitions and First Day Relief ("**Roberts Declaration**"), dated May 15, 2020 [ECF No. 13]				
2.	Affidavit of Service [ECF No. 92] (Service of Cash Collateral Motion and Interim Order)				
3.	Budget, Attached to the Cash Collateral Motion, dated May 15, 2020 [ECF No. 9], as Exhibit 1 to the Interim Order				
4.	Intercreditor Agreement among Gavilan Resources, LLC, JPMorgan Chase Bank, N.A., and Citibank, N.A., dated March 1, 2017				
5.	Affidavit of Service [ECF No. 101] (Service of Bid Procedures Motion)				
6.	Bid Procedures, Attached to the Bid Procedures Motion [ECF No. 99], as Exhibit 1 to the Order				

The Debtors reserve the right to amend or supplement the Witness and Exhibit List at any time prior to the Hearing.

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Dated: June 5, 2020
Houston, Texas

/s/ Alfredo R. Pérez

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Proposed Attorneys for Debtors

Certificate of Service

I hereby certify that on June 5, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Alfredo R. Pérez
Alfredo R. Pérez

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	**Chapter 11**
GAVILAN RESOURCES, LLC,	§	**Case No. 20-32656 (DRJ)**
Debtors.[1]	§	**(Joint Administration Requested)**

DECLARATION OF DAVID E. ROBERTS, JR. IN SUPPORT OF THE DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY RELIEF

I, David E. Roberts, Jr., pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true to the best of my knowledge, information, and belief:

1. I am the Chief Executive Officer of Gavilan Resources, LLC and its debtor affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the "**Debtors**" or "**Gavilan**").

2. I have over 36 years of experience in the oil and gas industry. As Chief Executive Officer and member of the Board, I am responsible for the overall success and strategic direction of the company. Before joining Gavilan, I served as Chief Executive Officer, President and Director at Penn West Petroleum. Prior to that, I served as Chief Operating Officer and Executive Vice President of Marathon Oil. I have served in various senior leadership roles at BG and Texaco. I am a distinguished alumnus and Petroleum Engineering graduate from the University of Alabama.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Gavilan Resources, LLC (6688); Gavilan Resources HoldCo, LLC (6425); Gavilan Resources Holdings, LLC (4496); and Gavilan Resources Management Services, LLC (3961). The Debtors' mailing address is 920 Memorial City Way, Suite 1400, Houston, Texas 77024.

3. On the date hereof (the "**Petition Date**"), the Debtors commenced in this Court voluntary cases (the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). In my capacity as Chief Executive Officer, I am knowledgeable about, and familiar with, the Debtors' day-to-day operations, books and records, and businesses and financial affairs as well as the circumstances leading to the commencement of these Chapter 11 Cases. I submit this declaration (this "**Declaration**") in support of the Debtors' voluntary petitions for relief and the motions and applications that the Debtors filed with this Court, including the "first-day" pleadings filed concurrently herewith (the "**First Day Pleadings**"). I am authorized to submit this Declaration on behalf of the Debtors.

4. Except as otherwise indicated, the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by employees of the Debtors, my opinion based upon my experience, knowledge, and information concerning the Debtors' operations and financial condition, or my discussions with Gavilan's restructuring and other advisors – Weil, Gotshal & Manges LLP ("**Weil**"), Vinson & Elkins LLP ("**V&E**"), Lazard, Frères & Co. LLC ("**Lazard**"), and Huron Consulting Services LLC ("**Huron**") (collectively, the "**Advisors**"). If called upon to testify, I would testify competently to the facts set forth in this Declaration.

5. This Declaration is organized into three sections. Section I provides an overview of the Debtors, the Debtors' business and the events leading to the commencement of the Chapter 11 Cases. Section II provides background information on the Debtors' organizational and capital structure. Section III summarizes the relief requested in, and the legal and factual bases supporting, the First Day Pleadings.

I. Overview

A. Debtors' Background and Business

6. Formed in early 2017 by funds managed by Blackstone Energy Partners L.P. ("**Blackstone**"), Gavilan is a private company in the business of acquiring, developing, and producing oil and natural gas assets in the Eagle Ford shale play in south Texas. In March 2017, Gavilan Resources, LLC ("**Resources**"), along with non-Debtors SN EF UnSub LP ("**UnSub**") and SN EF Maverick, LLC (together with Sanchez Energy Corporation, "**Sanchez**")[2], purchased certain assets in the Eagle Ford shale, known as the Comanche assets (the "**Comanche Assets**"), for approximately $2.3 billion from Anadarko Petroleum ("**Anadarko**"). Gavilan owns approximately 77,000 net acres of oil and gas leasehold interests. Gavilan paid Anadarko 50% of the purchase price, roughly $1.13 billion, and acquired 50% of all of Anadarko's interest in the Comanche Assets. UnSub paid Anadarko $744 million for the other 50% of Anadarko's proved developed producing ("**PDP**") assets, and 20% of Anadarko's proved developed non-producing ("**PDNP**") assets and proved undeveloped ("**PUD**") assets. SN Maverick paid Anadarko $394 million for the remaining 30% of Anadarko's PDNP and PUD assets.

7. Gavilan, Sanchez, and UnSub, either as part of the transaction with Anadarko or immediately thereafter, became party to a number of agreements related to the operations and management of the Comanche Assets. First, Gavilan, Sanchez, and UnSub became party to various joint operating agreements ("**JOAs**") – under which JOAs the Comanche Assets are pooled for operating purposes. As of the date hereof, Sanchez continues wrongfully to operate the Comanche Assets under the JOAs.

[2] Sanchez and certain of its affiliates are debtors-in-possession in their own chapter 11 cases. *In re Sanchez Energy Corporation*, Case No. 19-34508 (MI) (Bankr. S.D. Tex.)

8. Second, Gavilan, Sanchez, and UnSub entered into a Joint Development Agreement (the "**JDA**") on March 1, 2017 to govern the management and operations of the Comanche Assets. The heavily negotiated JDA sits atop the numerous JOAs and sets a unique framework to jointly manage and operate the Comanche Assets through a six-member "Operating Committee," "Budgets and Work Plans," and a right, by either Gavilan or SN Maverick, to divide operatorship after two years "for any reason." The JDA also provides for the appointment of an Operator to implement the programs considered and approved by the Operating Committee. Sanchez was appointed as the initial Operator under the JDA, and its status as such is subject to pending litigation in the Operatorship Dispute (defined below). Under the JDA, Sanchez sends to Gavilan a monthly capital call for payment, in advance, of the fees, expenses, and capital costs expected to be incurred and/or paid by Sanchez in the following month with respect to operations on the Comanche Assets. Sanchez has moved to reject the JDA in its bankruptcy proceeding.

9. Third, Gavilan, Sanchez, and UnSub entered into a Development Agreement with Anadarko under which Gavilan, Sanchez, and UnSub collectively agreed to complete and equip sixty (60) gross wells per year for five (5) years commencing in March 2017.

10. Fourth, Gavilan and Sanchez each entered into gathering agreements with Springfield Pipeline LLC ("**Springfield**") – UnSub's production is covered by Sanchez's gathering agreement. Oil, natural gas, and natural gas liquids (collectively, the "**Production**") produced with respect to Gavilan's working interests are gathered in-field by Springfield pursuant to two separate gathering agreements – one for gas and natural gas liquids ("**NGLs**"), and one for oil.

11. Lastly, Sanchez picks up from the Springfield gathering system and markets Gavilan's Production through three separate marketing agreements, one each for oil, natural gas, and NGLs. At the end of the process, Sanchez remits to Gavilan Gavilan's share of revenues net of severance taxes. Sanchez has also moved to reject the marketing agreements in its bankruptcy.

B. Events Leading to the Commencement of these Chapter 11 Cases

12. The precipitous decline in oil prices from the combined effect of the COVID-19 pandemic and the flooding of oil markets by warring international producers forced Gavilan into these chapter 11 proceedings. Since the fall of 2018, however, Gavilan has been entangled in, first, an increasingly unworkable relationship with Sanchez brought on by, among other things, Sanchez's own financial difficulties; second, arbitration (and litigation) stemming from Sanchez's defaults under the JDA (the "**Operatorship Dispute**"); and, ultimately, Sanchez's own chapter 11 cases filed in August 2019.

13. Gavilan enters these chapter 11 proceedings with a plan to market its business and assets while continuing its pursuit of operatorship of the Comanche Assets via the Operatorship Dispute.

i. Operatorship Dispute

14. As referenced above, Gavilan, Sanchez, and UnSub are parties to the JDA. Sanchez was in Default, for two independent reasons, under the JDA for months – before Sanchez filed its own chapter 11 cases. Sanchez disputed the Defaults, forcing Gavilan to confirm the Defaults through a contractually mandated arbitration process. Gavilan started arbitration proceedings in February 2019 before Judge Susan Soussan (*Gavilan Resources, LLC v. SN EF Maverick, LLC, et al.*, No. 01-19-0000-5228, American Arbitration Association).

15. Following the commencement of Sanchez's chapter 11 proceedings, Gavilan sought relief from the automatic stay to continue the arbitration. Respectful of the stay and the breathing room it affords debtors, Gavilan waited for progress to be made on Sanchez's own restructuring before prosecuting its motion to lift stay. In December 2019 and January 2020, as the continued uncertainty weighed on Gavilan's own business, Gavilan agreed with Sanchez to move the arbitration proceedings to Sanchez's chapter 11 cases so that the Operatorship Dispute could finally be resolved.[3] Trial on the Operatorship Dispute commenced on March 9, 2020 but was adjourned at the Court's suggestion so the parties could continue negotiations. After multiple delays due to circumstances of Sanchez's chapter 11 cases, trial is set to continue on May 22 and 26, 2020.

16. On April 30, 2020, the Bankruptcy Court confirmed the chapter 11 plan proposed by Sanchez in its chapter 11 cases. As indicated, Sanchez has moved to reject the JDA and assume the JOAs in connection with its plan of reorganization. Sanchez's plan has not yet become effective and it is unclear when Sanchez's plan will go effective.

17. The right to operatorship of the Comanche Assets is a valuable asset of the Debtors' estates and Gavilan intends to vigorously pursue those rights as part of its own sales and restructuring efforts. In fact, the timing of this filing was made sufficiently in advance of the continued hearings on the Operatorship Dispute so as not to jeopardize the trial dates and to protect Gavilan from any potential efforts by Sanchez to further delay the resolution of this matter.

[3] *See In re Sanchez Energy Corporation, et. al., Stipulation and Agreed Order Consensually Resolving Gavilan's Motion to Modify Automatic Stay*, Case No. 19-34508 (MI) (Bankr. S.D. Tex. Jan. 27, 2020) [ECF No. 885]. The Operatorship Dispute is styled as *Gavilan Resources, LLC v. SN EF Maverick, LLC, et. al.*, Adv. Proc. No. 20-03021.

ii. Gavilan's Prepetition Lender Negotiations

18. As further described below, Gavilan has two tranches of secured debt – an RBL and a second lien term loan. One of Gavilan's Second Lien Lenders is also the largest DIP lender and prepetition first lien lender to Sanchez. Gavilan has been in discussions with its lenders throughout the prepetition period and commenced discussions with its RBL lenders in March 2020 regarding potential defaults under the RBL credit agreement. Gavilan, certain of the RBL lenders, and secured hedge counterparties entered into a forbearance agreement on March 31, 2020 and a subsequent forbearance on May 1, 2020.

19. Gavilan had further discussions regarding its operations and potential paths forward with the RBL and negotiated the consensual use of cash collateral in support of these Chapter 11 Cases. *See, infra, Section III.D.*

II. Corporate and Capital Structure

A. Corporate Structure

20. Gavilan is a privately owned company with no publicly traded equity or debt. An organizational chart reflecting Gavilan's ownership is attached hereto as **Exhibit A**. Gavilan Resources Holdings, LLC ("**Holdings**") is a Debtor and the direct, or indirect, majority-owner of each other Debtor. Holdings is majority-owned by Gavilan Resources Intermediate Aggregator LLC, a non-debtor, which, in turn, is indirectly majority-owned by funds managed by Blackstone. SN Comanche Manager, LLC, a subsidiary of Sanchez, holds a small profits interest in Debtor Gavilan Resources HoldCo, LLC. Certain of Gavilan's employees also own profits interests in Holdings.

B. Directors and Officers

21. The board of managers of Holdings (the "**Board**"), consists of eight (8) members:

Mr. Angelo Acconcia
Mr. DJ (Jan) Baker
Mr. Neal Goldman
Mr. Al Hirshberg
Mr. John Lee
Mr. David Roberts
Mr. John Schopp
Mr. Mark Zhu

22. Messrs. Baker and Goldman were appointed as Special Independent Managers of Holdings' Board in December 2019.

23. The board of managers of Gavilan Resources HoldCo, LLC consists of three (3) members:

Mr. Angelo Acconcia
Mr. John Lee
Mr. Mark Zhu

24. The sole member of Resources is Gavilan Resources HoldCo, LLC and the sole member of Gavilan Resources Management Services, LLC is Holdings. Resources and GRMS are member managed and have no separate board.

25. The Debtors have the same senior management team, consisting of the following individuals:

Name	Position
David Roberts	Chief Executive Officer
Joseph Ketzner	Chief Operating Officer
Jeffrey Mobley	Chief Financial Officer

26. The Debtors currently lease corporate office space in Houston, Texas.

C. Debtors' Capital Structure

27. The Debtors enter chapter 11 with approximately $552 million in outstanding prepetition secured debt.

i. RBL Credit Agreement

28. As of the Petition Date, pursuant to that certain Credit Agreement, dated as of March 1, 2017 (as amended, modified, restated, amended and restated, and/or supplemented from time to time, the "**RBL Credit Agreement**"), by and between Resources, as borrower, the lenders from time to time party thereto (the "**RBL Lenders**"), JPMorgan Chase Bank, N.A., as administrative agent and as collateral agent (in such capacities, collectively, the "**RBL Agent**"), and the lending institutions from time to time parties as lenders thereto (the "**RBL Lenders**" and, together with the RBL Agent, the "**Prepetition RBL Secured Parties**"), the Borrower was indebted and liable to the Prepetition RBL Secured Parties in the approximate aggregate principal amount of $102 million, plus unpaid interest, fees, expenses, costs, and all other obligations payable under the RBL Documents (collectively, the "**Prepetition RBL Obligations**"). Obligations under the RBL Credit Agreement are secured by a first priority lien on substantially all of the Debtors' assets, including the Debtors' working interests in its oil and gas properties.

ii. Second Lien Credit Agreement

29. As of the Petition Date, pursuant to that certain Credit Agreement, dated as of March 1, 2017 (as amended, modified, restated, amended and restated, and/or supplemented from time to time, the "**Second Lien Credit Agreement**"), by and between Resources, as borrower, the lenders from time to time party thereto (the "**Second Lien Lenders**"), Wilmington Trust, N.A., as administrative agent (in such capacities, collectively, the "**Second Lien Agent**"), and the lending institutions from time to time parties as lenders

thereto (the "**Second Lien Lenders**" and, together with the Second Lien Agent, the "**Prepetition Second Lien Secured Parties**" and, together with the Prepetition RBL Secured Parties, the "**Prepetition Secured Parties**"), the Borrower was indebted and liable to the Prepetition Second Lien Secured Parties in the aggregate principal amount of $450 million, plus unpaid interest (before and after the Petition Date), fees, expenses (before and after the Petition Date), costs, and all other obligations payable under the Second Lien Documents (collectively, the "**Prepetition Second Lien Obligations**"). Obligations under the Second Lien Credit Agreement are secured by a second priority lien on substantially all of the Debtors' assets, including the Debtors' working interests in its oil and gas properties.

iii. Intercreditor Agreement

30. The relative contractual rights of the RBL Lenders, on the one hand, and the Second Lien Lenders, on the other hand, are governed by that certain Intercreditor Agreement, dated as of March 1, 2017 (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Intercreditor Agreement**"). The Intercreditor Agreement controls the rights and obligations of holders of the Debtors' obligations outstanding under the RBL Credit Agreement and the Second Lien Credit Agreement with respect to, among other things, priority of security over collateral, matters of debtor-in-possession financing, the use of cash collateral, and adequate protection.

III. The First Day Pleadings

31. The First Day Pleadings seek relief to allow the Debtors to meet necessary obligations and fulfill their duties as debtors in possession. I am familiar with the contents of each First Day Pleading and believe that the relief sought in each First Day Pleading is necessary to enable the Debtors to operate in chapter 11 with minimal disruption or loss of productivity and value, constitutes a critical element in achieving a successful reorganization of the Debtors,

and best serves the Debtors' estates and creditors' interests. The facts set forth in each First Day Pleading are incorporated herein by reference. Capitalized terms used but not otherwise defined in this section of this Declaration shall have the meanings ascribed to them in the relevant First Day Pleadings. Below is an overview of each of the First Day Pleadings.

A. Joint Administration Motion

32. Pursuant to the *Emergency Motion of Debtors Pursuant to Fed. R. Bankr. P. 1015(b) and Local Rule 1015-1 for Order Directing Joint Administration of Chapter 11 Cases* filed concurrently herewith, the Debtors request entry of an order directing consolidation of these chapter 11 cases for procedural purposes only. There are four Debtors, and I have been informed that there are more than fifty creditors and other parties in interest in these cases. I believe that joint administration of these cases would save the Debtors and their estates substantial time and expense because it would remove the need to prepare, replicate, file, and serve duplicative notices, applications, motions, and orders. Further, I believe that joint administration would relieve the Court of entering duplicative orders and maintaining duplicative files and dockets. The United States Trustee for Region 7 (the "**U.S. Trustee**") and other parties in interest would similarly benefit from joint administration of these cases, sparing them the time and effort of reviewing duplicative pleadings and papers.

33. I believe that joint administration would not adversely affect any creditors' rights because the Debtors' motion requests only the administrative consolidation of these cases for procedural purposes. It does not seek substantive consolidation of the Debtors' estates. Accordingly, I believe that joint administration of these chapter 11 cases is in the best interests of the Debtors, their estates, and all other parties in interest and should be granted in all respects.

B. Creditor List Motion

34. Pursuant to the *Emergency Motion of Debtors Pursuant to 11 U.S.C. § 107(c)(1)(A) and Fed. R. Bankr. P. 1007(a)(1) and (d) and for an Order (I) Authorizing Debtors to File a Consolidated Creditor Matrix and a Consolidated List of 30 Largest Unsecured Creditors; and (II) Approving Form and Manner of Notifying Creditors of Commencement of Chapter 11 Cases and Other Information; and (III) Granting Related Relief* ("the **Creditor List Motion**"), the Debtors request entry of an order (i) authorizing Debtors to file a consolidated creditor matrix (the "**Consolidated Creditor Matrix**") and a consolidated list of the Debtors' 30 largest unsecured creditors (the "**Consolidated Top 30 Creditors List**"); (ii) approving the form and manner of notifying creditors of the commencement of the chapter 11 cases and other information; and (iii) granting related relief.

35. I understand that, although a list of creditors is usually filed on a debtor-by-debtor basis, in a complex chapter 11 bankruptcy case involving more than one debtor, the debtors may file a Consolidated Creditor Matrix because the preparation of separate lists of creditors for each Debtor would be unduly expensive, time consuming, and administratively burdensome. The Debtors request authority to file a single Consolidated Creditor Matrix for all Debtors.

36. Because a large number of potential creditors may have claims against multiple Debtors, the Debtors request authority to file a single, consolidated list of the top 30 unsecured creditors for all Debtors collectively. The Consolidated Top 30 Creditors List will help alleviate undue administrative burdens, costs, and the possibility of duplicative service.

37. I believe that serving a single Notice of Commencement (as defined in the Creditor List Motion) on the Consolidated Creditor Matrix will preserve judicial resources and prevent creditor confusion. Additionally, given the location of the Debtors' operations in

Houston, Texas, I believe that publishing a notice in the *Houston Chronicle* is the most practical method by which to notify creditors and other parties in interest who do not receive the Notice of Commencement by mail of these chapter 11 cases.

C. Cash Management Motion

38. Pursuant to the *Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a), 345(b), 363(b), 363(c), 364(a) and 503(b) and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Related Obligations, (C) Continue Intercompany Transactions, (D) Maintain Existing Bank Accounts and Business Forms, and (E) Continue Using Corporate Credit Cards; and (II) Granting Related Relief* (the "**Cash Management Motion**"), the Debtors request (i) authority to (a) continue operating their existing cash management system (the "**Cash Management System**"), as described in the Cash Management Motion, including through the continued maintenance of existing bank accounts (the "**Bank Accounts**") at the existing banks (the "**Banks**") consistent with the Debtors' prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, (c) provide postpetition intercompany claims with administrative expense priority, (d) maintain existing bank accounts and business forms, and (e) continue using corporate credit cards; and (ii) related relief.

39. The Debtors support their business operations by using the Cash Management System to collect, concentrate, and disburse funds generated by the sale of hydrocarbons attributable to Debtors' non-operating working interests in certain oil and gas leases. The Cash Management System enables the Debtors to efficiently (i) fund their operations and pay their financial obligations, (ii) monitor and forecast their cash needs, (iii) track the collection and disbursement of funds, and (iv) maintain control over the administration of their Bank Accounts.

40. The Cash Management System is comprised of four Bank Accounts maintained by JPMorgan Chase Bank, N.A. ("**JP Morgan**").

41. The Debtors' cash receipts consist of revenues from the sale of oil, natural gas, and natural gas liquids. The Debtors' receipts enter the Cash Management System via check, wire transfer, and automated clearinghouse ("**ACH**") transfers.

42. The Debtors' collections are generally deposited into the operating account (Account No. XXXXXX4095) (the "**Resources Account**"), which is maintained by JP Morgan in the name of Resources and functions as a centralized repository of cash in the Cash Management System. In the past, the Debtors also received cash from hedging settlements and draws on their RBL Facility, which were also deposited into the Resources Account. The Resources Account holds cash until it is needed for disbursement, at which point the Debtors either (i) make such disbursements directly from the Resources Account or (ii) transfer cash from the Resources Account to the Management Account (as defined below) and make disbursements from there. As of the Petition Date, the Resources Account had an aggregate cash balance of approximately $31,453,711.50.

43. I understand that the majority of payments made from the Cash Management System are made directly from the Resources Account, including, but not limited to: (i) payments pursuant to Resources' obligations under the Joint Development Agreement associated with the Comanche Assets; (ii) payments under a gathering agreement for in-field gathering of production from Resources' oil and gas leases; (iii) payments on account of the Debtors' funded indebtedness, such as principal and interest payments and administrative fees; (iv) payment of professional fees; and (v) payments to the Management Account (defined below) for payment of certain administrative expenses, described below.

44. The Debtors maintain a separate account for disbursements (Account No. XXXXXX1625) (the "**Management Account**") related to, among other things (i) employee obligations, (ii) insurance expenses, (iii) third-party vendor and contractor expenses, (iv) taxes and regulatory fees, and (vi) the Debtors' office lease. The Management Account is held by Debtor Gavilan Resources Management Services, LLC ("**GRMS**"). The most significant disbursement from the Management Account is in satisfaction of the Debtors' obligations to their employees. With respect to such obligations, GRMS wires or transfers funds via ACH to a third-party payroll processor, Automatic Data Processing, Inc. ("**ADP**"), and ADP remits those funds to the Debtors' employees via direct deposit. The Debtors also pay various other expenses directly from the Management Account including payments on account of the Corporate Credit Card Program (as defined below). Transfers from the Resources Account to the Management Account are typically made monthly, in one lump sum payment. As of the Petition Date, the Management Account had an aggregate cash balance of $671,258.29.

45. The third account that the Debtors maintain is an idle account that rarely, if ever, receives funds from, or disburses funds to, any of the other Bank Accounts (Account No. XXXXXX2347) (the "**Idle Account**"). The Idle Account is maintained by JP Morgan in the name of Gavilan Resources HoldCo, LLC. As of the Petition Date, the Idle Account had an aggregate cash balance of $100.079.00.

46. I understand that, in the ordinary course of business, GRMS and Resources maintain a business relationship whereby GMRS provides employees, insurance, and office space, among other things, and Resources makes monthly, lump sum payments to fund GRMS. This relationship generates intercompany receivables and payables (the "**Intercompany Claims**") resulting from such intercompany transactions (the "**Intercompany Transactions**").

The Intercompany Claims are generally tracked on a net basis through the Debtors' intercompany accounts. Although some balances created by an Intercompany Transaction between one Debtor and another Debtor are cash settled, such as the payments made to GRMS for the provided services, other Intercompany Claims are netted out.

47. The Debtors' disbursement methods and resulting Intercompany Transactions and Intercompany Claims are efficient and well established. I believe that any disruption of this system at this time would unnecessarily distract the Debtors and their management team from other pending matters critical to these chapter 11 cases.

48. The Debtors also provide certain employees with access to corporate credit cards issued by JP Morgan (the "**Corporate Credit Cards**," and the Debtors' program relating to such cards, the "**Corporate Credit Card Program**"). There are two cash secured Corporate Credit Cards, which are utilized by the Debtors' Employees to pay for expenses or supplies, including cellular telephone service, incurred on behalf of the Debtors in the ordinary course of business. The Corporate Credit Cards are also used for travel-related expenses associated with the Debtors' business. The Debtors pay all costs incurred from the use of the Corporate Credit Cards directly to JP Morgan. The Credit Card Program has a credit limit of $7,500.

49. Resources maintains a separate money market demand account (Account No. XXXXXX1029) (the "**Credit Card Cash Collateral Account**") to secure payment on the Corporate Credit Cards. The Bank has first priority lien on all cash in the Credit Card Cash Collateral Account to secure the Debtors' obligations in respect of its Corporate Credit Cards. To the extent the Debtors fail to pay any obligations under the Corporate Credit Cards as and when due, the Bank may exercise remedies against the cash in the Credit Card Cash Collateral Account in respect of such unpaid obligations upon no less than five (5) business days' prior

notice to the Court and the Debtors, including by set-off. As of the Petition Date, the Credit Card Cash Collateral Account has an aggregate cash balance of $7,875.00.

50. In addition, in the ordinary course of business, the Debtors incur and pay, honor, or allow to be deducted from the appropriate Bank Accounts, certain service charges and other related fees, costs, and expenses charged by the Banks. The Debtors pay between approximately $1,000 and $2,000 per month on account of Bank Fees. As of the Petition Date, the Debtors estimate they owe approximately $1,000 in unpaid Bank Fees.

51. In the ordinary course of business, the Debtors use a variety of correspondence and business forms, including checks (collectively, the "**Business Forms**"). I believe that the Debtors' requested relief to continue using their Business Forms substantially in the forms used immediately prior to the Petition Date is critical to minimizing the expense to the Debtors' estates associated with developing and/or purchasing entirely new forms, the delay in conducting business prior to obtaining such forms, and the resulting confusion caused for suppliers and other vendors.

52. I believe any disruption to the Cash Management System would significantly interfere with the Debtors' business and impede a successful reorganization. Accordingly, on behalf of the Debtors, I respectfully submit that the relief requested in the Cash Management Motion is in the best interests of the Debtors' estates and all parties in interest and should be granted.

D. Cash Collateral Motion

53. Pursuant to the *Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 503, and 507 and Fed. R. Bankr. P. 2002, 4001, 6004, and 9014 (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Scheduling A Final Hearing; and (IV) Granting Related Relief*

(the "**Cash Collateral Motion**"), filed concurrently herewith, the Debtors seek entry of an interim order (the "**Interim Cash Collateral Order**") providing, among other things:

a. authority for the Debtors to use Cash Collateral (as such term is defined in section 363(a) of the Bankruptcy Code) of the Prepetition Secured Parties in accordance with the terms and conditions set forth in the Interim Order;

b. granting superpriority claims and the grant of automatically perfected liens, security interests, and other adequate protection to the Administrative Agent with respect to its interests in the Adequate Protection Collateral;

c. modification of the automatic stay of section 362 of the Bankruptcy Code (the "**Automatic Stay**") to the extent provided in the Cash Collateral Motion;

d. a waiver of any applicable stay (including under Bankruptcy Rule 6004) with respect to the effectiveness and enforceability of the Interim Order and providing for the immediate effectiveness of the Interim Order; and

e. scheduling a final hearing (the "**Final Hearing**") within thirty (30) days of the Petition Date and approving notice with respect thereto in accordance with Bankruptcy Rules 4001(b) and (d).

54. The Debtors commenced these chapter 11 cases to conduct a sale process for their assets. The Debtors require access to liquidity and Cash Collateral to fund the ongoing sale process and to maximize value for the Debtors' assets. Substantially all of the Debtors' total cash on hand as of the Petition Date, approximately $32 million, is subject to the liens of the Prepetition Secured Parties and thus constitutes Cash Collateral. The Debtors have determined that this existing cash, together with cash generated from operations, will be sufficient to enable the Debtors to continue paying operating expenses and to fund the sales process.

55. It is my belief that, without a prompt grant of authority to use their cash according to these terms, the Debtors will be unable to satisfy trade payables, implement the sales process to maximize the value of their assets, and administer these chapter 11 cases, which would cause immediate and irreparable harm to the value of the Debtors' estates to the detriment

of all stakeholders. Conversely, immediate access to Cash Collateral will permit the Debtors to continue to operate as a going concern. Accordingly, the use of Cash Collateral in accordance with the terms of the Interim Order is essential to the Debtors' ability to minimize disruptions and maximize value for their estates and parties in interest through the sales process.

56. The Debtors have agreed to use Cash Collateral in accordance with the Budget (subject to any Permitted Variances). The Budget includes all reasonable and foreseeable expenses to be incurred by the Debtors for the applicable period, and is designed to provide the Debtors with adequate liquidity over such period.

57. To protect the Prepetition Secured Parties from Diminution in Value of their interests in the Prepetition Collateral during the chapter 11 cases, the Debtors have agreed to provide adequate protection to the Administrative Agents, including in the form of (i) Adequate Protection Liens and Adequate Protection Claims (in each case, solely to the extent of any diminution in value of the Prepetition Collateral), (ii) payment of all reasonable fees, costs, and expenses, including reasonable attorneys' fees and out-of-pocket expenses and reasonable financial advisors' fees and out-of-pocket expenses (limited to one counsel to the RBL Administrative Agent, one financial advisor to the RBL Administrative Agent, and one local counsel to the RBL Administrative Agent), of the Administrative Agent, (iii) payment of interest and other fees to the RBL Administrative Agent in accordance with the terms of the RBL Credit Agreement; and (iv) and certain reporting obligations to the Administrative Agents set forth in the Interim Order. I believe that such terms are reasonable in light of the fact that, through the use of cash, there will almost certainly be Diminution in Value, and the only way to provide the Prepetition Secured Parties adequate protection is through the Adequate Protection Obligations and Adequate Protection Liens. Moreover, I believe that the RBL Administrative

Agent and RBL Lenders would only consent to the Debtors' use of Cash Collateral if the Interim Cash Collateral Order included the Adequate Protection Obligations.

58. I believe the arrangements for the consensual use of Cash Collateral authorized under the Interim Cash Collateral Order represent a flexible, interim solution to the Debtors' near-term liquidity needs. I believe that the agreement with the Prepetition RBL Secured Parties was negotiated and struck in good faith and at arm's length and preserves the status quo while providing the Debtors with sufficient liquidity to fund their business and to conduct the sale process. I further believe that the use of Cash Collateral on the terms set forth in the Interim Cash Collateral Order is unquestionably the Debtors' best postpetition financing option available and should be approved by the Court.

59. Moreover, in consenting to the use of Cash Collateral, the Prepetition RBL Secured Parties have agreed to subordinate the Adequate Protection Liens and the Adequate Protection Claims to certain fees and expenses (the "**Carve-Out**"), including (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to $50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all Allowed Professional Fees incurred by the Professionals and (iv) Allowed Professional Fees of Professionals in an aggregate amount not to exceed $2,000,000 incurred after the first business day following delivery by the RBL Administrative Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise. Without the Carve Out, the Debtors' estates and other parties in interest may be deprived of possible rights

and powers because all of the Debtors' assets would be subject to prior security interests. The Carve Out also protects against the possibility of administrative insolvency by ensuring that assets remain available for the payment of statutory and professional fees. My understanding based on discussions with counsel is that the Carve-Out is similar to other similar arrangements made for professional fees that have been found to be reasonable and necessary to ensure that a debtor's estate and any statutory committee can retain assistance from counsel. Therefore, I believe that the Carve-Out is fair and reasonable.

60. In addition, the Interim Cash Collateral Order provides for a modification of the automatic stay to permit the Debtors and each of the Prepetition Secured Parties to perform the transactions and actions contemplated or permitted by the Interim Cash Collateral Order. I believe that such provisions are a reasonable exercise of the Debtors' business judgment, are appropriate under the present circumstances, and, accordingly, should be approved.

61. It is my belief that an orderly transition into chapter 11 is critical to preserve the value and the viability of the Debtors' business operations. Any delay in granting the relief requested in the Cash Collateral Motion could hinder the Debtors' business operations, cause immediate, irreparable harm to the Debtors' estates, and thereby threaten the Debtors' ability to reorganize successfully.

62. Accordingly, I believe that the relief requested in the Cash Collateral Motion is in the best interests of the Debtors, their estates, and all other parties in interest and should be granted in all respects.

E. Wages Motion

63. *Pursuant to the Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 507 and Fed. R. Bankr. P. 6003 and 6004 for Final Order (I) Authorizing*

Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits, and Other Compensation and (B) Maintain Employee Benefit Programs; and (II) Granting Related Relief (the "**Wages Motion**"), the Debtors request authority to, in their sole discretion: (a) pay Employee Obligations (as defined is the Wages Motion), related expenses, and fees and costs incident to the foregoing, including amounts owed to third-party service providers, administrators, and taxing authorities, and (b) maintain, continue to honor, and pay amounts with respect to the Debtors' business practices, programs, and policies for their employees as such were in effect as of the Petition Date and as such may be modified or supplemented from time to time in the ordinary course of business. The Debtors further request that the Court authorize financial institutions to receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests related to such obligations.

64. As described more fully in the Wages Motion, compensation of the Debtors' 24 employees (each, an "**Employee**") is critical to the Debtors' continued chapter 11 process. All of the Debtors' Employees are located in Texas and are employed by Debtor Gavilan Resources Management Services, LLC. The Employees perform a wide variety of critical services for the Debtors, including management, engineering, geological and geophysical assessment, accounting, finance, treasury, planning and business development, safety training, logistics, tax and governmental compliance, legal and administration. The Employees' skills and knowledge of the Debtors' business operations are essential to the continued operation of the Debtors' businesses. I believe that without the Employees' continued, uninterrupted services, a successful chapter 11 process for the Debtors will not be possible.

65. The Employees are crucial to the Debtors' businesses. I believe that any delay in paying or failure to pay prepetition Employee Obligations could irreparably impair the morale of the Debtors' workforce at the time when their dedication, confidence, retention, and cooperation are essential to the stability of the Debtors' business. Failure to pay the Employee Obligations could also inflict a significant financial hardship on the Employees' families. The Debtors cannot risk such a substantial disruption to their business operations, and it is inequitable to put Employees at risk of such hardship.

66. I believe that payment of the Employee Obligations in the ordinary course of business would enable the Debtors to focus on completing a successful chapter 11 process, which would benefit all parties in interest. Recognizing how essential their Employees are to their continued operations, the Debtors have been proactive in taking steps to ensure current Employees remain at the Company.

67. In the ordinary course of business, the Debtors incur and pay obligations relating to salaries. The Debtors pay all of their Employees on a semi-monthly schedule, for a total of 24 payments per year. Rather than paying their employees directly, the Debtors transfer funds sufficient to cover Employees' salaries to Automatic Data Processing, Inc. ("**ADP**") and, in turn, ADP pays all of the of the Employees the compensation that they are owed. On average, the Debtors pay approximately $418,210 per month to ADP on account of Employees' gross pay. As of the Petition Date, the Debtors are current with respect to payments of Employee salaries.

68. In the ordinary course of business, the Debtors reimburse certain of their Employees for reasonable and customary expenses incurred in the scope of their employment (collectively, "**Reimbursable Expenses**," and the related obligations of the Debtors, the

"**Reimbursement Obligations**"). Reimbursable Expenses include reasonable and necessary travel expenses, including the costs of transportation, meals, and lodging, incurred by Employees in the course of their employment with the Debtors. Employees pay for the Reimbursable Expenses directly and submit such expenditures to the Debtors for reimbursement in accordance with the Debtors' expense reimbursement policies.

69. Although there are not currently any Reimbursable Expenses outstanding, I believe that payment of prepetition Reimbursable Expenses (as defined in the Wages Motion) is necessary because any other treatment of Employees would be highly inequitable and risk alienation of the Debtors' workforce. Employees who have incurred Reimbursable Expenses should not be forced personally to bear the cost, especially because those Employees incurred those expenses for the Debtors' benefit, in the course of their employment by the Debtors, and with the understanding that they would be reimbursed for doing so.

70. In addition to the Deductions, certain laws require the Debtors to withhold amounts from the Employees' gross pay related to federal, state, and local income taxes, Social Security and Medicare taxes for remittance to the appropriate federal, state, or local taxing authority (collectively, the "**Withholdings Taxes**"), which the Debtors must match, from their own funds, amounts for Social Security and Medicare taxes and pay, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance (collectively with the Withholding Taxes, the "**Payroll Taxes**"). I believe that disbursement of the Deductions and payment of the Payroll Taxes would not prejudice other creditors because I have been informed by counsel that such obligations generally give rise to priority claims under section 507(a) of the Bankruptcy Code.

71. The Debtors' current average liabilities each month for Withholding Taxes and Employer Payroll Taxes total approximately $89,354 and $8,029, respectively. The Debtors estimate that, as of the Petition Date, they hold Withholding Taxes in the approximate amount of $44,677 on Employees' behalf and owe Employer Payroll Taxes in the approximate amount of $4,104, for an aggregate amount of $48,781 in Payroll Taxes.

72. The Debtors maintain a severance program for full-time Employees, who work at least 30 hours per week (the "**Eligible Employees**"), in which the Debtors provide Eligible Employees with lump-sum severance payments upon termination (such practice, the "**Severance Program**" and the related payment obligations, the "**Severance Obligations**"). The Severance Program is available in the event of involuntary termination due to a reduction in workforce/downsizing, change in company direction, or job elimination. The Severance Program does not apply to terminations for cause. Severance Obligations are calculated using base pay and duration of employment, plus two (2) months COBRA insurance. Pursuant to the Severance Program, the Debtors pay[4] Eligible Employees up to two weeks of base pay for each completed year of service working for the Debtors, with a minimum of four weeks and a maximum of fifty-two weeks. The Debtors do not have any Eligible Employees currently entitled to more than ten (10) weeks of severance. As of the Petition Date, the Debtors do not owe any amounts on account of accrued prepetition Severance Obligations.

73. As described in the Wages Motion, the Debtors pay fees to third-party administrators and servicers of Employee Compensations Obligations and the Employee Benefit Plans. Third-party administrators assist the Debtors with, among other things, servicing the

[4] Payment of Severance Obligations is contingent upon the Employee's execution of a release agreement satisfactory to the Debtors.

Health and Welfare Benefits (as defined in the Wages Motion) and also assist with payroll processing, tax computation, payment preparation, payroll transfer administration, and various administrative services in connection with Employee Obligations. I believe that continued payment to third-party administrators is necessary, and without the continued service of these administrators, the Debtors will be unable to continue honoring their obligations to Employees in an efficient and cost-effective manner.

74. To efficiently manage the processing and payment of the various obligations described above (the "**Payroll Maintenance Fees**"), the Debtors rely on ADP to provide payroll processing, tax computation, payment preparation, payroll transfer administration, and various administrative services. Each payroll period, 24 to 48 hours before payroll is due, the Debtors make an automated clearing house ("**ACH**") transfer to ADP in an amount necessary to satisfy the Debtors' payroll obligations. ADP then processes direct deposit transfers to the Employees on the payroll date. The services that ADP provides are critical to the smooth functioning of the Debtors' payroll system. ADP is responsible for ensuring that (i) Employees are paid on time, (ii) appropriate deductions are made, (iii) payroll reporting is accurate, and (iv) appropriate amounts are remitted to the applicable taxing authorities and other payees. The Debtors pay ADP approximately $3,517 per month for the aforementioned services, plus a one-time yearly fee of approximately $800. As of the Petition Date, the Debtors owe ADP approximately $3,000 on account of prepetition Payroll Maintenance Fees.

75. In the ordinary course of business, the Debtors also make various benefit plans available to their Employees. These benefit plans fall within the following categories: (i) paid time off, including vacation and other leave (together, the "**Employee Leave Benefits**"); (ii) medical, prescription drug, dental, and vision benefits ("**Medical Benefits**"); (iii) life

insurance, accidental death and dismemberment ("**AD&D**") insurance, supplemental insurance, short-term disability, and long-term disability benefits (the "**Insurance Benefits**" and, together with the Medical Benefits, the "**Health and Welfare Benefits**"); and (iv) 401(k) plan benefits (the "**Retirement Benefits**") (each of (i)-(iv), an "**Employee Benefit**" and the plans related thereto, the "**Employee Benefit Plans**"). Although the Debtors maintain some Employee Benefit Plans themselves, certain other Employee Benefit Plans are maintained by third parties.

76. The Employee Leave Benefits are administered by the Debtors. Employees accrue paid time off and related benefits for (i) vacation, (ii) payment in lieu of leave, and (iii) other paid time off, as described below:

77. Vacation Leave. Eligible Employees are eligible for paid vacation leave. Eligible Employees receive between 20 and 30 vacation days per year, based on their years of prior work experience (with a "day" of time off equaling eight hours). Vacation leave is awarded on the first scheduled workday of the new calendar year[5] and accrues each pay period, though Eligible Employees are permitted to take up to ten (10) days of vacation time in advance of accrual each year, as long as the applicable Eligible Employee receives approval from a supervisor. Eligible Employees can carry over up to ten (10) vacation days to a subsequent year.

78. Other Paid Time Off. Eligible Employees are eligible for various other types of paid time off, including (i) paid sick leave, for up to 40 hours per year, (ii) paid holiday leave on each of the 13 annual holidays observed by the Debtors,[6] (iii) paid bereavement leave for up to five (5) days, (iv) paid caregiver leave of up to five (5) days, and (v) paid maternity

[5] Each new Employee receives a pro-rated allotment of vacation leave for the remainder of the calendar year, based upon his or her date of hire.

[6] Full-Time Employees who have completed at least six (6) consecutive months of employment with the Debtors as of December 31st of the previous year will also receive two (2) floating holidays per calendar year. New Employees will receive one (1) floating holiday, as long as the Employee is hired prior to June 30th.

leave for up to six (6) weeks.[7] All Employees are eligible for (i) paid jury duty leave for up to one month per year and (ii) military leave consistent with the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994. As of the Petition Date, no Employees are receiving paid time off, other than in accordance with the programs described above.

79. Payment In Lieu of Leave. The Debtors do not provide for payments in lieu of leave, except in the case of vacation leave, and, in that case, only upon (i) voluntary resignation by an Eligible Employee and if the Eligible Employee provides the Debtors with a minimum of two weeks' written notice[8] or (ii) involuntary termination of an Eligible Employee for reasons other than for cause. Under these circumstances, the Debtors will pay the Eligible Employee for up to a maximum of ten (10) days of accrued and unused vacation, including any accruals that occur during the Eligible Employee's remaining two weeks of employment, pursuant to the normal accrual calculation.

80. Only amounts relating to Vacation Leave are payable upon termination. As of the Petition Date, Employees have accrued approximately $193,019.23 on account of Vacation Leave, which represents the total amount of Employee Leave Benefits that are accrued. The Debtors do not currently owe any amounts on account of Employee Leave Benefits.

81. The Debtors offer the following Health and Welfare Benefits to Eligible Employees: (i) Medical and Prescription Drug Plan, (ii) Dental Plan, (iii) Vision Plan, (iv) Health Savings Account,

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[7] To be eligible for paid maternity leave, the Employee must qualify for pregnancy-related benefits under the Short-Term Disability Plan (defined below). The paid leave will be comprised of income received from the Short-term Disability Plan (paid at 60% of base salary) and up to 96 hours of paid leave directly from the Debtors, depending on the Employee's length of employment and calculated at the Employee's regular rate of pay.

[8] For the purpose of meeting the two-week notice requirement, Employees may not count any paid or unpaid time off.

82. Medical and Prescription Drug Plan. The Debtors offer Eligible Employees medical care and prescription drug coverage (the "**Medical and Prescription Drug Plan**") through BlueCross BlueShield of Texas ("**BCBS**").[9] As of the Petition Date, the Debtors estimate that the Medical and Prescription Drug Plan has approximately 24 program participants, including under the Consolidated Omnibus Budget Reconciliation Act ("**COBRA**"). The Medical and Prescription Drug Plan is fully insured. The Debtors pay approximately $45,825 in premiums per month, which are payable on the last day of the month for the following month. The Debtors pay 100% of participating Employees' premiums to BCBS. As of the Petition Date, the Debtors are current with respect to payments on account of the Medical and Prescription Drug Plan.

83. Dental Plan. The Debtors offer Eligible Employees dental coverage (the "**Dental Plan**") through Ameritas Life Insurance Corp. ("**Ameritas**"). As of the Petition Date, the Debtors estimate that the Dental Plan has approximately 24 program participants. The Dental Plan is fully insured. The Debtors pay approximately $2,259 in premiums per month, which are payable in the last week of the month for the following month. The Debtors pay 100% of participating Employees' premiums to Ameritas. As of the Petition Date, the Debtors are current with respect to payments on account of the Dental Plan.

84. Vision Plan. The Debtors offer Eligible Employees vision coverage (the "**Vision Plan**") through Vision Services Plan ("**VSP**"). As of the Petition Date, the Debtors estimate that the Vision Plan has approximately 24 program participants. The Vision Plan is

[9] The Debtors offer their Employees two Medical and Prescription Drug Plan options through BCBS: (i) the "Traditional Plan" and (ii) the "High Deductible Health Plan" ("**BCBS HDHP**") with the option to enroll in the Health Savings Account ("**HSA**") Program. Under the Traditional Plan, the network deductibles for Employees and family care are $1,250 and $3,750, respectively. Under the HDHP, the network deductibles for Employees and family care are $3,000 and $9,000, respectively.

fully insured. The Debtors pay approximately $381 in premiums per month, which are payable in the first week of the month for the current month. The Debtors pay 100% of participating Employees' premiums to VSP. As of the Petition Date, the Debtors are current with respect to payments on account of the Vision Plan.

85. Health Savings Accounts. The Debtors provide the option for Eligible Employees to use their pre-tax compensation to pay for qualified health, dental, and vision expenses through a health savings account (the "**HSA Program**") administered by HSA Bank. Only employees enrolled in the BCBS HDHP Medical and Prescription Drug Plan are eligible to participate in the HSA Program. Under the HSA Program, participating Employees may contribute up to a maximum of $3,550 per year for Employee-only coverage and up to $7,100 per year for family health coverage, subject to limitations under applicable law. Participating Employees aged 55 years or older may contribute an additional $1,000 as a 'catch-up' contribution. Under the HSA Program, a participating Employee's pre-tax contributions are withheld from the Employee's paycheck on a semi-monthly basis by ADP. The Debtors coordinate with ADP to have such withheld amounts transmitted to HSA Bank and HSA Bank deposits the withheld amounts into the Employees' accounts established at HSA Bank.

86. The Debtors pay HSA Bank $25 per month on account of administrative fees. As of the Petition Date, the Debtors estimate that the amounts for administrative costs owed to HSA Bank under the HSA Program total approximately $25.

87. Furthermore, under the HSA Program, the Debtors contribute $1,750 per plan, per year, to participating Employee-only accounts and $4,000 per plan, per year, to participating Employee family accounts.[10] The Debtors pay these amounts as a lump sum on or

[10] These amounts are prorated based on the date of enrollment.

around July 15th of each year following the July 1st start of the benefits plan year. As of the Petition Date, the Debtors owe approximately $41,250 in employer contributions to the HSA Program on or around July 1, 2020.

88. The Debtors offer the following Insurance Benefit programs through Lincoln Financial and FOCUS 10 LIFE, Inc.:

89. Basic Life and AD&D Insurance Plans. The Debtors provide all Eligible Employees with basic life and AD&D insurance coverage ("**Basic Life and AD&D Insurance Plans**"), which is fully insured by Lincoln Financial. The Basic Life and AD&D Insurance Plans provide coverage equal to two times an employee's annual base pay rounded up to the nearest $1,000 (up to a maximum of $320,000). The Debtors pay approximately $2,737 in premiums per month, which are payable on the first of the month for the current month. The Debtors pay 100% of participating Employees' premiums. As of the Petition Date, the Debtors are current with respect to payments on account of the Basic Life and AD&D Insurance Plans.

90. Individual Life Insurance Plan. The Debtors provide individual life insurance policies (the "**Individual Life Insurance Plan**") to a subset of Eligible Employees. The Individual Life Insurance Plan is underwritten by Ameritas and administered by FOCUS 10 LIFE, Inc. The Debtors pay approximately $3,893 in premiums per month, which are payable in the first week of the month for the current month. The Debtors pay 100% of participating Employees' premiums. As of the Petition Date, the Debtors are current with respect to payments on account of the Individual Life Insurance Plan.

91. Supplemental Insurance Plans. Eligible Employees can elect to purchase insurance coverage for their spouses and/or children, as well as purchase additional insurance coverage for themselves (collectively, the "**Supplemental Insurance Plans**"), at their own

expense. The Supplemental Insurance Plans include additional life and AD&D coverage provided by Lincoln Financial. Each month, the Debtors pay Lincoln Financial, in advance, for amounts owed on account of the Supplemental Insurance Plans. Then, the Employee premiums for the Supplemental Insurance Plans are deducted from program participants' payroll each pay period.

92. The Debtors pay approximately $292 per month in Employee deductions to Lincoln Financial in connection with the Supplemental Insurance Plans. As of the Petition Date, the Debtors estimate that they are current with respect to amounts owed to Lincoln Financial on account of the Supplemental Insurance Plans.

93. Long-Term Disability Plan. The Debtors provide all Eligible Employees with long-term disability coverage (the "**Long-Term Disability Plan**"), which is fully insured by Lincoln Financial. The Long-Term Disability Plan provides coverage up to 60% of a participating Employee's monthly income (with a maximum benefit of $10,000 per month). The Debtors pay approximately $1,245 in premiums per month, which are payable on the first of the month for the current month. The Debtors pay 100% of participating Employees' premiums. As of the Petition Date, the Debtors are current with respect to amounts owed on account of the Long-Term Disability Plan.

94. Short-Term Disability Plan. The Debtors provide all Eligible Employees with short-term disability coverage (the "**Short-Term Disability Plan**"), which is fully insured by Lincoln Financial. The Short-Term Disability Plan provides coverage up to 60% of a participating Employee's weekly salary (with a maximum benefit of $2,300 per week) for up to 13 weeks. The Debtors pay approximately $838 in premiums per month, which are payable on the first of the month for the current month. As of the Petition Date, the Debtors are current

with respect to amounts owed to Lincoln Financial on account of the Short-Term Disability Plan.

95. The Debtors also provide retirement benefits to their employees. The Debtors maintain a defined contribution plan for the benefit of all Employees[11] meeting the requirements of sections 401(a) and 401(k) of the Internal Revenue Code (the "**401(k) Savings Plan**"). Each Employee participant in the 401(k) Plan may contribute (subject to limitations under applicable law) up to 90% of the Employees' eligible earnings, in any combination of pre-tax and Roth contributions.[12] The 401(k) Savings Plan is managed by ADP Retirement Services. As of the Petition Date, 24 Employees have account balances in the 401(k) Savings Plan.[13] The 401(k) Savings Plan is primarily funded with withholdings from Employee salaries, which are withheld on a per payroll basis by ADP WorkforceNow Payroll from employee gross wages, each time a contributing Employee's payroll is processed. ADP transfers these funds directly to ADP Retirement Services for further deposit in the Employees' accounts. Each month, approximately $12,727 is withheld from participating Employees' paychecks on account of the 401(k) Savings Plan (the "**401(k) Savings Plan Withholdings**").

96. The Debtors currently have a matching program pursuant to which they match up to 6% of participating Employees' 401(k) Savings Plan contributions on a dollar-for-dollar basis (not to exceed the lesser of the Internal Revenue Service contribution limits and $56,000). Contributions by the Debtor under the matching program are typically paid by the

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[11] Subject to the following limitation: employees must be at least 18 years of age and have completed two months of service as an Employee to be eligible for the Debtors' 401(k) plan.

[12] The annual contribution limit for 2020 is $19,500 for individuals under fifty years of age, and $26,000 for those aged fifty and older.

[13] In addition, former Employees who maintain a sufficient balance in the 401(k) Savings Plan are entitled to retain their account. As of the Petition Date, the Debtors believe that 3 former Employees and qualified beneficiaries have 401(k) Savings Plan Accounts.

Debtors to ADP Retirement Services, per payroll, 48 hours after payroll is paid. The Debtors estimate that they pay approximately $8,750 per month in matching contributions under the 401(k) Savings Plan and approximately $4,375 per payroll. As of the Petition Date, the Debtors estimate that they are current with respect to amounts owed to ADP Retirement Services on account of contributions to the 401(k) Savings Plan.

97. In connection with the 401(k) Savings Plan, the Debtors pay ADP Retirement Services a monthly fee of approximately $548 for administrative recordkeeping and third party fiduciary services. As of the Petition Date, the Debtors owe a total of approximately $548 to ADP Retirement Services on account of such fees.

98. Similarly, the Debtors pay Merrill Lynch for fiduciary advisory, education, and plan services, in connection with the 401(k) Savings Plan. The Debtors estimate that they pay approximately $1,455 per quarter to Merrill Lynch for such services. As of the Petition Date, the Debtors estimate that they are current with respect to amounts owed to Merill Lynch for the aforementioned services.

99. The Debtors do not seek to alter their compensation, severance, vacation, or other benefit policies at this time. The Motion is intended only to permit the Debtors, in their discretion, to (i) make payments consistent with the Debtors' existing policies to the extent that, without the benefit of an order approving this Motion, such payments may be inconsistent with the relevant provisions of the Bankruptcy Code, and (ii) honor their practices, programs, and policies with respect to their Employees, as such practices programs, and policies were in effect as of the Petition Date.

100. I believe that no Employees are currently owed prepetition amounts exceeding the $13,650 cap imposed by section 507(a)(4) of the Bankruptcy Code and that,

accordingly, the Debtors are not seeking relief to pay prepetition Employee Obligations to any individual Employee in excess of such cap. I also believe that the total amount sought to be paid by the Wages Motion is modest compared to the magnitude of the Debtors' overall business. Accordingly, I believe the relief requested in the Wages Motion is necessary to avoid immediate and irreparable harm and is in the best interests of the Debtors, their estates, and all parties in interest.

F. Extension of Time to File Schedules, Statements, and List of Equity Security Holders

101. Pursuant to the *Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 521 and Fed. R. Bankr. P. 1007(a)(3), 1007(c), and 9006 For An Order Extending Time to File Schedules and Statements and List of Equity Security Holders*, the Debtors request an extension of the deadlines by which the Debtors must file (i) schedules of assets and liabilities, (ii) schedules of current income and current expenditures, (iii) statements of financial affairs (collectively, the "**Schedules and Statements**"), and (iv) a list of equity security holders, through and including July 14, 2020, for a total of 60 days from the Petition Date, without prejudice to the Debtors' ability to request additional extensions for cause shown.

102. To prepare their Schedules and Statements and list of equity holders, the Debtors will have to compile information from books, records, and documents relating to a substantial number of parties, claims, assets, and contracts for each Debtor entity. Collection of the necessary information will require a significant expenditure of time and effort on the part of the Debtors and the Debtors' employees. This process has been made more difficult given the ongoing pandemic. Many of the Debtors' employees are working remotely, which has hindered their ability to access and compile the materials necessary to prepare the Debtors' Schedules and Statements and list of equity holders.

103. Furthermore, in the days leading up to the Petition Date, the Debtors' primary focus has been preparing for these chapter 11 cases. Focusing the attention of key personnel on critical operational and chapter 11 compliance issues during the early days of these chapter 11 cases will facilitate the Debtors' smooth transition into chapter 11, thereby maximizing value for their estates, their creditors, and other parties in interest. Although the Debtors have commenced the task of gathering the information necessary for preparing and finalizing the Schedules and Statements and list of equity holders, the Debtors' resources are strained and limited. Given the amount of work involved in completing the Schedules and Statements and list of equity holders, and the demands on the Debtors and their professionals to maintain business operations in the current environment and while working remotely, the Debtors anticipate that they will require 60 days from the Petition Date to complete and file the Schedules and Statements and list of equity holders.

G. Insurance Motion

104. Pursuant to the *Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 363(b) and Fed. R. Bankr. P. 6003, and 6004 for Order (I) Authorizing Debtors to Continue Insurance Policies and Pay All Obligations With Respect Thereto; and (II) Granting Related Relief* (the "**Insurance Motion**") the Debtors request authority to (a) continue all the Insurance Policies (as defined below) in accordance with the applicable insurance policies and to perform with respect thereto in the ordinary course of business; (b) pay any prepetition obligations arising under the Insurance Programs; and (ii) related relief.

105. In the ordinary course of business, the Debtors maintain approximately six insurance programs (collectively, the "**Insurance Policies**"), including (i) coverage of workers' compensation and employer's liability (the "**Worker's Compensation Program**"); (ii) coverage for liabilities relating to, among other things, general commercial claims, property damage,

pollution, collision and other auto claims, and other property-related and general liabilities (collectively, the "**General Liability and Property Insurance Programs**"); (iii) coverage for claims by employees arising from or related to alleged discrimination, wrongful termination, harassment, and other defined employment-related acts against the Debtors, and claims of mismanagement of the Debtors' employee benefit plans (collectively, the "**Employment Practices and Fiduciary Liability Programs**"); (iv) coverage of the Debtors' vehicles (the "**Automobile Program**"); (v) five insurance policies covering liabilities of directors and officers for alleged wrongful acts that cannot be indemnified by the Company, and covering the Company where it has indemnified the Debtors' directors and officers for liability arising from alleged wrongful acts (the "**D&O Insurance Programs**"); and (vi) umbrella and excess coverage (the "**Umbrella Program**"). The Debtors incur certain obligations to pay premiums and other obligations related thereto, including, but not limited to, any broker or advisor fees, taxes, other fees, and deductibles, through several insurance carriers (each, an "**Insurance Carrier**").

106. Worker's Compensation Program. The Debtors maintain the Worker's Compensation Program with a policy provided by Travelers Casualty & Surety Company of America ("**Travelers**"), which also provides coverage for employer liability arising from Workers' Compensation Claims. The Workers' Compensation Program covers liability up to $1 million or the applicable statutory limit. Pursuant to the Workers' Compensation Program, for the current coverage period ending April 1, 2021, the Debtors have paid the full premium amount of $8,800. As of the Petition Date, the Debtors are not aware of any outstanding premiums or prepetition amounts owed under the Workers' Compensation Program. The Debtors anticipate that premium adjustments as a result of an ongoing audit may become due after the first 21 days

of these chapter 11 cases. The Debtors seek relief to pay any such premium adjustments up to $25,000 that become due during these chapter 11 cases.

107. General Liability and Property Insurance Programs. The Debtors maintain the General Liability and Property Insurance Programs through policies with Travelers. The General Liability and Property Insurance Programs cover liabilities up to $2 million for general liability claims and up to $3,528,000 for property insurance claims. For the property insurance programs only, the Debtors must pay a per occurrence deductible of $1,000. Pursuant to the General Liability and Property Insurance Programs, for the current coverage period ending April 1, 2021, the Debtors paid the full aggregate premium amount of $15,300. As of the Petition Date, the Debtors are not aware of any outstanding premiums or prepetition amounts owed under the General Liability and Property Insurance Programs.

108. Employment Practices and Fiduciary Liability Programs. The Debtors maintain the Employment Practices and Fiduciary Liability Programs through policies with Illinois National Insurance Company ("**Illinois National**") and cover liabilities up to $1 million for employment practices claims and up to $500,000 for fiduciary liability claims. The Debtors are responsible for a $25,000 retention prior to disbursement under the employment practices liability program. There is no retention for disbursements under the fiduciary liability program. The premiums owed under the Employment Practice and Fiduciary Liability Programs are included in the premiums for the D&O Insurance Programs (as defined below). As of the Petition Date, the Debtors are not aware of any outstanding prepetition amounts owed under the Employment Practices and Fiduciary Liability Programs.

109. Automobile Program. The Debtors maintain the Automobile Program through a policy with Travelers and covers liability up to $1 million. Pursuant to the Automobile

Program, for the current coverage period ending April 1, 2021, the Debtors paid the full premium amount of $590. As of the Petition Date, the Debtors are not aware of any outstanding premiums or prepetition amounts owed under the Automobile Program.

110. D&O Insurance Programs. The Debtors maintain five insurance policies, each as a layer of coverage, that provide the Debtors with insurance for their directors and officers for liabilities arising from alleged wrongful acts that cannot be indemnified by the Company, and for the Company where it has indemnified the Debtors' directors and officers for liability arising from alleged wrongful acts (the "**D&O Insurance Programs**"). The Debtors incur premiums under the D&O Insurance Programs based upon fixed rates established and billed by the applicable Insurance Carriers, in addition to various deductibles. The first four layers of the D&O Insurance Programs each provide for Side A (non-indemnifiable claims), Side B (corporate reimbursement for indemnifiable claims), and Side C (enterprise liability claims) coverage. The first layer of D&O Insurance Programs covers liability up to $10 million. The Debtors are responsible for a $250,000 retention prior to disbursement of Side B or Side C claim coverage, but are not responsible for any retention prior to disbursement of Side A claim coverage. The second, third, and fourth layers each provide for an additional $10 million of coverage in excess of the coverage in the layer proceeding it, for a total of $40 million coverage. The fifth layer provides solely for an additional $5 million of Side A, non-indemnifiable claim coverage in excess of the previous layers. The Debtors are not responsible for any retention prior to disbursement under the second, third, fourth, or fifth layers of coverage. The D&O Insurance Programs include an automatic pre-paid conversion to six-year run-off upon certain change-in-control events, as defined in the polices, for any liabilities that arise from alleged wrongful acts alleged to have occurred prior to a change-in-control event. Pursuant to the D&O Insurance

Programs, for the current coverage period ending April 30, 2021, the Debtors paid an aggregate premium of approximately $3 million. As of the Petition Date, the Debtors are not aware of any outstanding premiums or prepetition amounts owed under the D&O Insurance Programs.

111. Umbrella Program. The Umbrella Program is provided by Travelers covers liabilities up to $5 million in excess of the coverage provided by the general liability program, the employment practices program and the Automobile Program. In the limited event the Umbrella Program becomes the first layer of coverage, the Debtors are responsible for a $10,000 deductible. Pursuant to the Umbrella Program, for the current coverage period ending April 1, 2021, the Debtors paid the full premium amount of $5,000. As of the Petition Date, the Debtors are not aware of any outstanding premiums or prepetition amounts owed under the Umbrella Program.

112. The Debtors utilize Marsh & McLennan Companies ("**Marsh**") as their insurance agent and broker to assist with the procurement and negotiation of certain Insurance Programs and, in most circumstances, to remit premium payments to the Insurance Carriers on behalf of the Debtors for the current policy periods. In exchange for its services, the Debtors pay Marsh certain fees (the "**Broker's Fees**") that are paid on a commission basis by the Insurance Carriers, with such commissions being earned upon inception of the applicable policy term. As of the Petition Date, the Debtors do not believe that they have any outstanding obligations owed to Marsh for Broker's Fees.

113. I believe the Insurance Programs are essential to the Debtors' operations, as the Debtors would be exposed to significant liability if the Insurance Programs were allowed to lapse or terminate, which exposure could detrimentally impact the Debtors' ability to reorganize successfully. I also understand that some of the Insurance Programs are required by

certain regulations, laws, and contracts that govern the Debtors' commercial activities, and that the U.S. Trustee's operating guidelines require maintenance of certain of the Insurance Programs. It is similarly critical that the Debtors have the authority to supplement, amend, extend, renew, or replace their Insurance Programs as needed, in their business judgement. Based on the foregoing, I believe that the relief requested in the Insurance Motion is in the best interests of the Debtors, their estates, and all parties in interest and should be approved.

H. Utilities Motion

114. Pursuant to the *Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 366 and Fed. R. Bankr. P. 6003 and 6004 for an Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Companies, (II) Establishing Procedures for Resolving Objections by Utility Companies, , (III) Prohibiting Utility Companies From Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief*, filed concurrently herewith (the "**Utilities Motion**"), the Debtors request (i) approval of the Debtors' proposed form of adequate assurance of payment to the Utility Companies (as defined herein), (ii) establishment of procedures for resolving objections by the Utility Companies relating to the adequacy of the proposed adequate assurance, (iii) prohibition of the Utility Companies from altering, refusing, or discontinuing service to, or discriminating against, the Debtors on account of the commencement of these chapter 11 cases or outstanding prepetition invoices, and (iv) related relief.

115. As more fully described in the Utilities Motion, the Debtors obtain telecommunications, information technology services, and other utility services (collectively, the "**Utility Services**") from a number of utility companies (collectively, the "**Utility Companies**"). I believe that uninterrupted Utility Services are essential to the Debtors' ongoing operations and the success of these chapter 11 cases. Should any Utility Company alter, refuse, or discontinue

service, even briefly, the Debtors' business operations could be severely disrupted. I believe that any such disruption would jeopardize the Debtors' ability to manage their reorganization efforts. As a result, it is essential that the Utility Services continue uninterrupted during the chapter 11 cases.

116. I believe that there are no material defaults or significant arrearages with respect to the undisputed invoices for prepetition Utility Services. Based on a monthly average for the twelve months prior to the Petition Date, the Debtors estimate that their aggregate cost of Utility Services for the next 30 days will be approximately $3,280.

117. I believe and am advised that the Debtors intend to pay postpetition obligations owed to the Utility Companies in a timely manner and will have sufficient funds to do so. To provide the Utility Companies with adequate assurance pursuant to section 366 of the Bankruptcy Code, the Debtors propose to deposit cash in an amount equal to two weeks' cost of Utility Services (the "**Adequate Assurance Deposit**"), calculated using the 12-month average historical average for such payments prior to the Petition Date, into a newly created, segregated account for the benefit of the Utility Companies (the "**Utility Deposit Account**"). The Adequate Assurance Deposit will be placed into the Utility Deposit Account within 20 days after the Petition Date. The Adequate Assurance Deposit will be held by the Debtors in the Utility Deposit Account for the benefit of the Utility Companies on the Utility Services List during the pendency of these chapter 11 cases. The Debtors may adjust the Adequate Assurance Deposit if the Debtors terminate any of the Utility Services provided by a Utility Company, make other arrangements with certain Utility Companies for adequate assurance of payment, determine that an entity listed on the Utility Services List is not a utility company as defined by section 366 of the Bankruptcy Code, or supplement the Utility Services List to include additional Utility Companies. Based on

the foregoing, the Debtors estimate that the total amount of the Adequate Assurance Deposit will be approximately $1,640. No liens will encumber the Adequate Assurance Deposit or the Utility Deposit Account.

118. I believe and am advised that the Adequate Assurance Procedures are necessary to the success of the Debtors' chapter 11 cases because if such procedures are not approved, the Debtors could be forced to address numerous requests by Utility Companies for adequate assurance in a disorganized manner during the critical first weeks of the chapter 11 cases. Discontinuation of Utility Service could disrupt operations and jeopardize the Debtors' reorganization efforts and, ultimately, the value of the Debtors' estates and stakeholders' recoveries.

119. Based on the foregoing, I believe that the relief requested in the Utilities Motion would ensure the continuation of the Debtors' businesses at this critical juncture as the Debtors transition into chapter 11. Furthermore, I believe that the relief requested provides the Utility Companies with a fair and orderly procedure for determining requests for additional adequate assurance. Accordingly, I believe that the relief requested in the Utilities Motion should be granted in all respects.

I. Claims Agent Retention Application

120. Pursuant to the *Emergency Application of Debtors Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. §§ 105(a), 327, and 503(b), Fed. R. Bankr. P. 2002(f), 2014(a), and 2016, and Bankruptcy Local Rule 2014-1 Authorizing Appointment of Epiq Corporate Restructuring, LLC as Claims, Noticing, and Solicitation Agent* (the "**Claims Agent Retention Application**"), the Debtors request entry of an order appointing Epiq Corporate Restructuring, LLC ("**Epiq**") as the claims, noticing, and solicitation agent ("**Claims and Noticing Agent**") for the Debtors in their chapter 11 cases, effective as of the Petition Date.

121. As more fully described in the Claims Agent Retention Application, the Claims and Noticing Agent will provide the following services:

a. Assisting the Debtors with the preparation and distribution of all required notices in these chapter 11 cases including: (i) notice of the commencement of the cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code, (ii) notice of any claims bar dates, to the extent ordered by the Court, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notice of any hearings or combined hearing on chapter 11 plan(s) and disclosure statement(s) filed in these chapter 11 cases, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of the chapter 11 plan, and (vii) all other notices, orders, pleadings, publications, and other documents as the Debtors may deem necessary or appropriate for an orderly administration of these cases;

b. Maintaining (i) a list of all potential creditors, equity holders, and other parties in interest and (ii) a "core" mailing list consisting of all parties described in Bankruptcy Rule 2002 and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010;

c. Assisting the Debtors with the preparation of the Debtors' Schedules of Assets and Liabilities ("Schedules") and Statements of Financial Affairs ("SOFAs") (as needed);

d. Maintaining a post office box or address for the purpose of receiving correspondence, proofs of claim, ballots, and returned mail and processing all mail received;

e. For all notices, motions, orders or other pleadings or documents served, preparing and filing or causing to be filed with the Clerk an affidavit or certificate of service no more frequently than every seven days that includes (i) either a copy of each notice served for the proceeding seven days or the docket number(s) and title(s) of the pleading(s) served during such period, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;

f. Receiving and processing all proofs of claim received, including those received by the Clerk, check said processing for accuracy, and maintaining any original proofs of claim received in a secure area; if a proof of claim is filed with the Clerk, Epiq will cause any such proof of claim to be copied into an official claims register (the "Claims Register");

g. Providing an electronic interface for filing proofs of claim;

h. If a claims bar date is established, maintaining the Claims Register fully accessible via Epiq's website, which register shall include all claims filed either with the Clerk or otherwise with Epiq, and specifying therein the following information for each claim docketed: (i) any claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the address for payment, if different from the notice address; (v) the amount asserted, (vi) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.), and (vii) any disposition of the claim;

i. Recording all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);

j. Implementing necessary security measures to ensure the completeness and integrity of the Claims Register and the safekeeping of any original claims;

k. Monitoring the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Register and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;

l. Assisting in the dissemination of information to the public and responding to requests for administrative information regarding the cases, as directed by the Debtors and/or the Court, including through the use of a case website and/or call center;

m. Complying with all applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders, and other requirements;

n. If these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contacting the Clerk's office within three days of notice to Epiq of entry of the order converting the cases;

o. Within seven days of notice to Epiq of entry of an order closing these chapter 11 cases, providing to the Court the final version of the Claims Register as of the date immediately before the close of these chapter 11 cases;

p. At the close of these chapter 11 cases, (i) boxing and transporting all original documents, in proper format, as provided by the Clerk's office, to (A) the Philadelphia Federal Records Center, 14700 Townsend Road, Philadelphia, PA 19154 or (B) any other location requested by the Clerk's office; and (ii) docket a completed SF-135 Form indicating the accession and location numbers of the archived claims;

q. Assisting with solicitation, balloting, and tabulation of votes in connection with any chapter 11 plan proposed, and in connection with such services, processing requests for documents from any parties in interest;

r. Preparing the certification of votes of any proposed chapter 11 plan submitted in connection with these chapter 11 cases in accordance with any solicitation order to be issued by the Court and testifying in support of such certification;

s. Attending related hearings, as may be requested by the Debtors or their counsel;

t. Managing any distribution pursuant to any confirmed plan prior to the effective date of such plan; and

u. Providing such other processing solicitation, balloting, and other administrative services described in the Engagement Agreement that may be requested from time to time by the Debtors, the Court or the Clerk's office.

122. The appointment of Epiq as the Claims and Noticing Agent will provide the most effective and efficient means of providing that notice, as well as soliciting and tabulating votes on the proposed plan of reorganization, thereby relieving the Debtors of the administrative burden associated with all of these necessary tasks. In addition, by appointing Epiq as the Claims and Noticing Agent in these chapter 11 cases, the distribution of notices will be expedited, and the Office of the Clerk of the Bankruptcy Court will be relieved of the administrative burden of noticing. Accordingly, I believe the Claims Agent Retention Application should be granted in all respects.

J. Automatic Stay Motion

123. Pursuant to the *Emergency Motion of Debtors to Lift the Automatic Stay Solely to the Extent Necessary to Proceed with the Gavilan Adversary Proceeding*, to the extent the automatic stay applies to the proceeding, *Gavilan Resources, LLC, v. SN EF Maverick, LLC, et al., Adv. Proc. No. 20-03021* (the "**Gavilan Adversary Proceeding**"), the Debtors seek relief from the automatic stay for the limited purpose of continuing the Gavilan Adversary Proceeding. As explained above, in the Gavilan Adversary Proceeding, Gavilan asserts that due to SN Maverick's Defaults[14] under the JDA, SN Maverick lost its right to serve as the Operator of the Comanche Assets, and operatorship under the JDA transferred to Gavilan immediately upon the occurrence of SN Maverick's Default.

[14] The term "**Default**" shall have the meaning ascribed to it in the JDA. The JDA defines "Default" as the "failure by [any] party . . . to remedy, within thirty (30) days of receipt of a Default Notice from any other Party, the material non-performance or material non-compliance with a material provision of [the JDA]." JDA Annex I, at A-4.

124. As explained previously, Gavilan maintains that SN Maverick has been in Default under the JDA for two reasons. First, SN Maverick materially breached the JDA by failing to adhere to the Operating Committee's 2018 Budget and Work Plan by unilaterally and significantly deviating from well completion plans for at least 20 wells over a period of several months. Second, after the parties were unable to agree on a Subsequent Budget and Work Plan (as defined in the JDA), SN Maverick materially breached the JDA by refusing to honor Gavilan's contractual right, pursuant to the JDA, to elect to divide operatorship. The JDA allows either party to elect to divide operatorship "for any reason." JDA § 3.8(e).[15]

125. The JDA provides, "[e]ffective immediately upon" a Default by SN Maverick, "the operatorship of the applicable [Comanche] Assets . . . and the right to serve as, or to designate, the operator of such Assets under the applicable Operating Agreement(s) shall, subject to the terms of such Operating Agreement(s), be transferred to [Gavilan] . . . ." JDA § 3.8(f). The parties further emphasized the immediate nature of the transfer of operatorship: "[f]or the avoidance of doubt and notwithstanding anything in this Agreement to the contrary, the transfer of operatorship and the rights related thereto described in this section 3.8(f) shall be triggered automatically upon the occurrence of an Operator Default Even . . ." *Id.*

126. SN Maverick refuses to acknowledge the occurrence of either Default (which occurred on February 16, 2019 and June 22, 2019 with respect to the default for deviating from the 2018 Budget and Work Plan and for failing to divide operatorship, respectively).[16]

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[15] In the event that either party elects to cause a division of operatorship, the rights to operatorship of the wellpads "shall be divided between [Gavilan] and [Sanchez] on a geographic Wellpad-by-Wellpad basis approximating an alternating, checkerboard pattern (or such other pattern as may be mutually agreed by [Sanchez] and [Gavilan]." JDA §3.8(e)(i).

[16] Gavilan sent SN Maverick Notices on January 16, 2019 (for the deviations from the 2018 Budget and Work Pan) and May 22, 2019 (for the failure to divide operatorship).

127. In February 2019, pursuant to section 7.12(c) of the JDA, Gavilan commenced arbitration proceedings against SN Maverick, before Judge Susan Soussan.[17] Following the commencement of Sanchez's chapter 11 proceedings, Gavilan sought relief from the automatic stay in the Sanchez cases to continue the arbitration.[18]

128. Respectful of the stay and the breathing room it affords debtors, Gavilan waited for progress to be made on Sanchez's own restructuring before prosecuting its motion to lift stay. In December 2019 and January 2020, as the continued uncertainty weighed on Gavilan's own business, Gavilan agreed with Sanchez to move the arbitration proceedings to Sanchez's chapter 11 cases so that the Operatorship Dispute could finally be resolved by the bankruptcy court.[19] Through a joint stipulation and order, the Court commenced the Gavilan Adversary Proceeding.

129. When the Gavilan Adversary Proceeding was initiated, Gavilan and Sanchez had already obtained substantial discovery, taken depositions and disclosed expert reports during the arbitration process. The substantive pleadings from the arbitration were filed in the Gavilan Adversary Proceeding.[20] Similarly, the parties' disclosures and document productions were deemed to have been served and depositions deemed to have been taken in the Gavilan Adversary Proceeding.

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17 *Gavilan Resources, LLC v. SN EF Maverick, LLC, et al.*, No. 01-19-0000-5228, American Arbitration Association.

18 *See In re Sanchez Energy Corporation, et. al., Gavilan Resources, LLC's Motion for Relief From the Automatic Stay to Allow Completion of Arbitration*, Case No. 19-34508 (MI) (Bankr. S.D. Aug. 23, 2019) [ECF No. 222].

19 *See In re Sanchez Energy Corporation, et. al., Stipulation and Agreed Order Consensually Resolving Gavilan's Motion to Modify Automatic Stay*, Case No. 19-34508 (MI) (Bankr. S.D. Tex. Jan. 27, 2020) [ECF No. 885].

20 *See Gavilan Resources, LLC, v. SN EF Maverick, LLC, et al.*, Adv. Proc. No. 20-03021 (Bankr. S.D. Tex. Jan. 27, 2020) [ECF No. 1].

130. Trial on the Gavilan Adversary Proceeding commenced on March 9, 2020. The trial was adjourned after one day of testimony, at the Court's suggestion, so the parties could continue negotiations, but no resolution has been reached to date. After multiple delays due to circumstances of Sanchez's chapter 11 cases, the trial is set to continue on May 22, 2020. The parties anticipate eleven or fewer hours of testimony to conclude the trial.

131. The Debtors enter these chapter 11 proceedings with a plan to market their business and assets through a sale process (the "**Sale Process**"). The right to operatorship of the Comanche Assets is a valuable asset of the Debtors' estates and I understand that the Debtors intend to vigorously pursue those rights as part of their own sales and restructuring efforts.

132. I believe the outcome of the Operatorship Dispute will impact the value of the Debtors' assets. If the Debtors are successful in obtaining operatorship, the structure of the Debtors' business will change.

133. Moreover, operatorship rights are typically accorded a premium over non-operating, working interests. Consequently, the success of the Debtors' marketing and sale process and any value obtained by the Debtors as part of the Sale Process may depend on resolving the Operatorship Dispute.

134. Additionally, irrespective of how the dispute is ultimately resolved, I believe that the overhang of the litigation on the Debtors may dissuade bidders from bidding on the Debtors' assets. In Sanchez's chapter 11 cases, Sanchez submitted evidence that the pendency of the Operatorship Dispute negatively affected Sanchez's ability to obtain bids for financing from other potential financing parties.[21] Specifically, one reason potential financing

[21] *See In re Sanchez Energy Corporation, et. al.*, Case No. 19-34508 (MI) (Bankr. S.D. Tex. Aug. 12, 2019) [ECF No. 26-3].

counterparties declined to participate in debtor in possession financing was the "potential complications and uncertainties related to [Sanchez's] organizational and capital structure . . . including a pending operatorship dispute between SN Maverick and Gavilan Resources, LLC."[22] This possibility further complicates any attempt by potential bidders to value the Debtors' assets.

135. I believe that a final decision on the Operatorship Dispute is essential to develop an accurate understanding and valuation of the Debtors' assets for purposes of the sale process, and ultimately, the Debtors' reorganization options.

Conclusion

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 15, 2020
Houston, Texas

/s/ David E. Roberts, Jr.
Name: David E. Roberts, Jr.
Title: Chief Executive Officer

[22] *Id.*

Certificate of Service

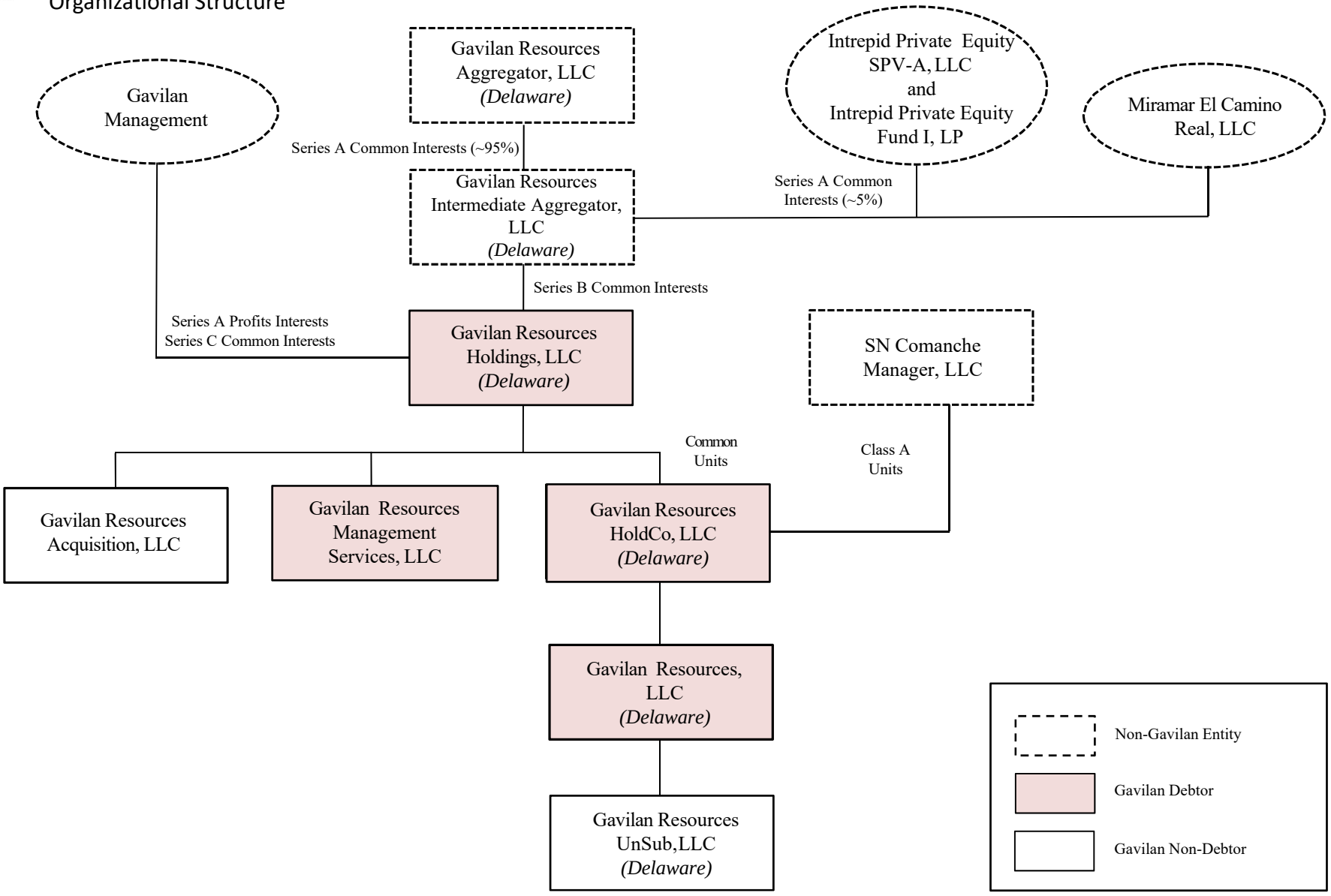
I hereby certify that on March 15, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed claims, noticing, and solicitation agent.

/s/ Alfredo R. Pérez
Alfredo R. Pérez

Exhibit A

GAVILAN RESOURCES

Organizational Structure



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
GAVILAN RESOURCES, LLC,.	Case No. 20-32656 (DRJ)
Debtors.[1]	Jointly Administered
	Ref. Docket Nos. 2, 3, 5-12, 14, 16, 17, 24, 26, 27, 50, 52-57

AFFIDAVIT OF SERVICE

STATE OF CONNECTICUT)
) ss.:
COUNTY OF HARTFORD)

MARC ORFITELLI, being duly sworn, deposes and says:

1. I am employed as a Senior Case Manager by Epiq Corporate Restructuring, LLC, with their principal office located at 777 Third Avenue, New York, NY 10017. I am over the age of eighteen years and am not a party to the above-captioned action.

2. On May 18, 2020, I caused to be served the:

   a. "Emergency Motion of Debtors Pursuant to Fed. R. Bankr. P. 1015(b) and Local Rule 1015-1 for Order Directing Joint Administration of Chapter 11 Cases ," dated May 15, 2020 [Docket No. 2], (the "Joint Administration Motion"),

   b. "Notice of Designation as Complex Chapter 11 Case," dated May 15, 2020 [Docket No. 3], (the "Complex Case Motion"),

   c. "Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 366 And Fed. R. Bankr. P. 6003 and 6004 for an Order (I) Approving the Debtors' Proposed Form of Adequate Assurance of Payment to Utility Companies; (II) Establishing Procedures for Resolving Objections by Utility Companies, (III) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, and (IV) Granting Related Relief," dated May, 15 2020 [Docket No. 5], (the "Utilities Motion"),

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Gavilan Resources, LLC (6688); Gavilan Resources Holdco, LLC (6425); Gavilan Resources Holdings, LLC (4496); and Gavilan Resources Management Services, LLC (3961). The Debtors' mailing address is 920 Memorial City Way, Suite 1400, Houston, Texas 77024.

d. "Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 363, 507 and 105 and Fed. R. Bankr. P. 6003 and 6004 for an Order (I) Authorizing Debtors to (A) Pay Prepetition Salaries, Employee Benefits, and Other Compensation, and (B) Maintain Employee Benefit Programs; and (II) Granting Related Relief," May 15, 2020 [Docket No. 6], (the "Wage Motion"),

e. "Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a), 345(b), 363(b), 363(c), 364(a), and 503(b) and Fed. R. Bankr. P. 6003 and 6004 for Interim And Final Orders (I) Authorizing Debtors To (A) Continue Existing Cash Management System, (B) Honor Certain Related Obligations, (C) Continue Intercompany Transactions, (D) Maintain Existing Bank Accounts and Business Forms, and (E) Continue Using Corporate Credit Cards and (II) Granting Related Relief ," dated May 15, 2020 [Docket No. 7], (the "Cash Management Motion"),

f. "Emergency Motion of Debtors to Lift the Automatic Stay Solely to the Extent Necessary to Proceed with the Gavilan Adversary Proceeding," dated May 15, 2020 [Docket No. 8], (the "Motion to Lift Stay"),

g. "Emergency Motion of Debtors Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 503 and 507 and Fed. R. Bankr. P. 2002, 4001, 6004, and 9014 (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Scheduling a Final Hearing; and (IV) Granting Related Relief," dated May 15, 2020 [Docket No. 9], (the "Cash Collateral Motion"),

h. "Emergency Motion of Debtors Pursuant To 11 U.S.C. § 521 and Fed. R. Bankr. P. 1007(a)(3), 1007(c), and 9006 for an Order Extending Time to File Schedules and Statements And List Of Equity Security Holders," dated May 15, 2020 [Docket No. 10], (the "Motion to Extend Time"),

i. "Emergency Motion of Debtors Pursuant to 11 U.S.C. § 107(c)(1))A)(1) and Fed. R. Bankr. P. 1007(a)(1) and (d) for an Order (I) Authorizing Debtors to File a Consolidated Creditor Matrix and a Consolidated List of 30 Largest Unsecured Creditors; (II) Approving Form and Manner of Notifying Creditors of Commencement of Chapter 11 Cases and Other Information; and (III) Granting Related Relief," dated May 15, 2020 [Docket No. 11], (the "Creditor Matrix Motion"),

j. "Emergency Application of Debtors Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. §§105(a), 327, and 503(b) Fed. R. Bankr. P 2002(f), 2014 (a) and 2016 and Bankruptcy Local Rule b 2014-1 Authorizing Appointment of Epiq Corporate Restructuring, LLC as Claims, Noticing and Solicitation Agent," dated May 15, 2020 [Docket No. 12], (the "Epiq Retention"),

k. "Request for Emergency Consideration for Certain "First Day Matters," dated May 15, 2020 [Docket No. 14], (the "Request for Emergency Consideration"), and

l. "Notice of Electronic Hearing" dated May 16, 2020 [Docket No. 16], (the "Electronic Hearing"), and

m. "Notice of Agenda of Matters Set for Emergency Hearing on May 18, 2020, at 2:30 p.m. (Prevailing Central Time)," dated May 16, 2020 [Docket No. 17], (the "Agenda Matters"), and

n. "Order Pursuant to Fed. R. Bank. P. 1015(b) and Local Rule 1015-1 Directing Joint Administration of Chapter 11 Cases," dated May 17, 2020, [Docket No. 24], (the "Joint Admin Order"), and

o. "Order Granting Complex Chapter 11 Bankruptcy Case Treatment," dated May 17, 2020, [Docket No. 26], (the "Complex Case Order"), and

p. "Order Granting Limited Relief from the Automatic Stat to Allow Continuance of the Gavilan Adversary Proceeding," dated May 17, 2020, [Docket No. 27], (the "Automatic Stay Order"), and

q. "Amended Order Pursuant to 28 U.S.C. § 156(c), 11 U.S.C. §§105(a), 327, and 503(b) Fed. R. Bankr. P 2002(f), 2014 (a) and 2016 and Bankruptcy Local Rule 2014-1 Authorizing Appointment of Epiq Corporate Restructuring, LLC as Claims, Noticing and Solicitation Agent," dated May 18, 2020, [Docket No. 50], (the "Epiq Retention Order"), and

r. "Order Pursuant to 11 U.S.C. §§ 105(a) and 366 And Fed. R. Bankr. P. 6003 and 6004 (I) Approving the Debtors' Proposed Form of Adequate Assurance of Payment to Utility Companies; (II) Establishing Procedures for Resolving Objections by Utility Companies, (III) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, and (IV) Granting Related Relief," dated May, 18 2020 [Docket No. 52], (the "Utilities Order"),

s. "Order Pursuant to 11 U.S.C. §§ 363, 507 and 105 and Fed. R. Bankr. P. 6003 and 6004 for an Order (I) Authorizing Debtors to (A) Pay Prepetition Salaries, Employee Benefits, and Other Compensation, and (B) Maintain Employee Benefit Programs; and (II) Granting Related Relief," May 18, 2020 [Docket No. 53], (the "Wage Order"),

t. "Interim Order Pursuant to 11 U.S.C. §§ 105(a), 345(b), 363(b), 363(c), 364(a), and 503(b) and Fed. R. Bankr. P. 6003 and 6004 (I) Authorizing Debtors To (A) Continue Existing Cash Management System, (B) Honor Certain Related Obligations, (C) Continue Intercompany Transactions, (D) Maintain Existing Bank Accounts and Business Forms, and (E) Continue Using Corporate Credit Cards and (II) Granting Related Relief ," dated May 18, 2020 [Docket No. 54], (the "Cash Management Order"),

u. "Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 503 and 507 and Fed. R. Bankr. P. 2002, 4001, 6004, and 9014 (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Scheduling a Final

Hearing; and (IV) Granting Related Relief," dated May 18, 2020 [Docket No. 55], (the "Cash Collateral Order"),

v. "Order Pursuant To 11 U.S.C. § 521 and Fed. R. Bankr. P. 1007(a)(3), 1007(c), and 9006 for an Order Extending Time to File Schedules and Statements And List Of Equity Security Holders," dated May 18, 2020 [Docket No. 56], (the "Order to Extend Time"),

w. "Order Pursuant to 11 U.S.C. § 107(c)(1))A)(1) and Fed. R. Bankr. P. 1007(a)(1) and (d) (I) Authorizing Debtors to File a Consolidated Creditor Matrix and a Consolidated List of 30 Largest Unsecured Creditors; (II) Approving Form and Manner of Notifying Creditors of Commencement of Chapter 11 Cases and Other Information; and (III) Granting Related Relief," dated May 18, 2020 [Docket No. 57], (the "Creditor Matrix Order"),

by causing true and correct copies of the:

i. Utilities Motion, Utilities Order, to be enclosed securely in separate postage pre-paid envelopes and delivered via overnight mail to those parties listed on the annexed Exhibit A,

ii. Joint Administration Motion, Complex Case Motion, Utilities Motion, Wage Motion, Cash Management Motion, Motion to Lift Stay, Cash Collateral Motion, Motion to Extend Time, Creditor Matrix Motion, Epiq Retention, Joint Admin Order, Complex Case Order, Automatic Stay Order, Epiq Retention Order, Utilities Order, Wage Order, Cash Management Order, Cash Collateral Order, Order to Extend Time, Creditor Matrix Motion, to be delivered via first class mail to those parties listed on the annexed Exhibit B,

iii. Wage Motion, Cash Management Motion, Cash Collateral Motion, Wage Order, Cash Management Order, Cash Collateral Order, to be delivered via first class mail to those parties listed on the annexed Exhibit C,

iv. Cash Collateral Motion, Cash Collateral Order, to be delivered via first class mail to those parties listed on the annexed Exhibit D,

v. Motion to Lift Stay, Automatic Stay Order, to be delivered via first class mail to those parties listed on the annexed Exhibit E,

vi. Joint Administration Motion, Complex Case Motion, Utilities Motion, Wage Motion, Cash Management Motion, Motion to Lift Stay, Cash Collateral Motion. Motion to Extend Time, Creditor Matrix Motion, Epiq Retention, Joint Admin Order, Complex Case Order, Automatic Stay Order, Epiq Retention Order. Utilities Order, Wage Order, Cash Management Order, Cash Collateral Order, Order to Extend Time, Creditor Matrix Motion, to be delivered via electronic mail to those parties listed on the annexed Exhibit F,

vii. Utilities Motion, Utilities Order, to be delivered via electronic mail to those parties listed on the annexed Exhibit G, and

viii. Request for Emergency Consideration, Electronic Hearing, Agenda Matters, to be delivered via electronic mail to those parties listed on the annexed Exhibit H.

3. All envelopes utilized in the service of the foregoing contained the following legend: "LEGAL DOCUMENTS ENCLOSED. PLEASE DIRECT TO THE ATTENTION OF ADDRESSEE, PRESIDENT OR LEGAL DEPARTMENT."

/s/ Marc Orfitelli
Marc Orfitelli

Sworn to before me this
22nd day of May, 2020
/s/ Amy E. Lewis
Notary Public, State of Connecticut
Acct. No. 100624
Commission Expires: 8/31/2022

EXHIBIT A

Claim Name	Address Information
CALLTOWER INC	10701 S. RIVER FRONT PKWY SUITE 450 SOUTH JORDAN UT 84095
CALLTOWER INC	DEPT LA23615 PASADENA CA 91185-3615
COMCAST	5001 SPRING VALLEY RD DALLAS TX 75244
COMCAST	PO BOX 660618 DALLAS TX 75266-0618
COMCAST	8590 W TIDWELL RD HOUSTON TX 77040
LOGIX HOLDING COMPANY, LLC	LOGIX FIBER NETWORKS P.O. BOX 734120 DALLAS TX 75373-4120
LOGIX HOLDING COMPANY, LLC	2950 NORTH LOOP WEST HOUSTON TX 77092

Total Creditor count 7

EXHIBIT B

Claim Name	Address Information
ARNOLD & PORTER KAYE SCHOLER LLP	(COUNSEL WILMINGTON TRUST, NATIONAL ASSOCIATION) ATTN: ROSA J. EVERGREEN, ESQ. 601 MASSACHUSETTS AVE., NW WASHINGTON DC 20001
ARNOLD & PORTER KAYE SCHOLER LLP	(COUNSEL WILMINGTON TRUST, NATIONAL ASSOCIATION) ATTN: MICHAEL D. MESSERSMITH, ESQ. 70 WEST MADISON STREET, SUITE 4200 CHICAGO IL 60602
ARNOLD & PORTER KAYE SCHOLER LLP	(COUNSEL WILMINGTON TRUST, NATIONAL ASSOCIATION) ATTN: CHRISTOPHER M. ODELL 700 LOUISIANA STREET, SUITE 4000 HOUSTON TX 77002-2755
CORE GEOLOGIC LLC	ATTN: DANIEL LOWRIE, VP 1600 BROADWAY SUITE 1480 DENVER CO 80202
DRILLING INFO INC	ATTN: ALLEN GILMER 3333 LEE PARKWAY DALLAS TX 75219
ENVIRONMENTAL SYSTEMS RESEARCH	INSTITUTE INC ATTN: JACK DANGERMOND 380 NEW YORK STREET REDLANDS CA 92373
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP	(COUNSEL TO THE SECOND LIEN AD HOC GROUP) ATTN: BRAD ERIC SCHELER, GARY L. KAPLAN, CARL I. STAPEN AND BRYAN M. CIMALA ONE NEW YORK PLAZA NEW YORK NY 10004
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION PO BOX 7346 PHILADELPHIA PA 19101-7446
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION 2970 MARKET ST MAIL STOP 5 Q30 133 PHILADELPHIA PA 19104-5016
INTERNAL REVENUE SERVICE	324 25TH ST OGDEN UT 84201-0059
MCKOOL SMITH, P.C.	(COUNSEL TO THE SECOND LIEN AD HOC GROUP) ATTN: HUGH M. RAY, JR., JOHN J. SPARACINO AND VERONICA MANNING) 600 TRAVIS ST., STE. 7000 HOUSTON TX 77002
MITSUI E&P TEXAS LP	ATTN: KAZUHIKO GOMI 1300 POST OAK BLVD SUITE 1800 HOUSTON TX 77056
NYSE MARKET (DE), INC.	ATTN: ASHA SHAH, DIRECTOR 11 WALL ST. FL 6 NEW YORK NY 10005-1905
OFFICE OF UNITED STATES TRUSTEE	515 RUSK STREET, SUITE 3516 HOUSTON TX 77002
SILVERSAND SERVICES INC	ATTN: MARK LLOYD 2827 BARKER CYPRESS RD HOUSTON TX 77084
SIMPSON THACHER & BARTLETT LLP	ATTN: ELISHA D. GRAFF 425 LEXINGTON AVENUE, NEW YORK NY 10017
SIMPSON THACHER & BARTLETT LLP	ATTN: ROBERT R. RABALAIS 600 TRAVIS STREET, STE 5400 HOUSTON TX 77002
SN EF MAVERICK LLC	ATTN: CAMERON W GEORGE, CFO 1000 MAIN ST STE 3000 HOUSTON TX 77002
US ATTORNEY'S OFFICE	SOUTHERN DISTRICT OF TEXAS 1000 LOUISIANA STE 2300 HOUSTON TX 77002
VENADO EF LP	ATTN: SCOTT GARRICK CEO 13301 GALLERIA CIRCLE 300 AUSTIN TX 78738
WGR OPERATING LP	ATTN: JOHN MAHAR STE 1201 LAKE ROBBINS DR THE WOODLANDS TX 77380

Total Creditor count 21

EXHIBIT C

Claim Name	Address Information
JPMORGAN CHASE & CO.	ATTN: KODY NERIOS 712 MAIN ST FLOOR 05 HOUSTON TX 77002

Total Creditor count 1

EXHIBIT D

Claim Name	Address Information
WILMINGTON TRUST, NATIONAL ASSOCIATION	ATTN: JEFFREY ROSE, VP 50 SOUTH SIXTH STREET SUITE 1290 MINNEAPOLIS MN 55402

Total Creditor count 1

EXHIBIT E

Claim Name	Address Information
AKIN GUMP STRAUSS HAUER & FELD LLP	ATTN: MARTY L. BRIMMAGE 2300 N. FIELD STREET SUITE 1800 DALLAS TX 75201
GIBBS & BRUNS LLP	ATTN: ROBIN C. GIBBS 1100 LOUISIANA STREET SUITE 5300 HOUSTON TX 77002
JACKSON WALKER L.L.P.	ATTN: ELIZABETH C. FREEMAN 1401 MCKINNEY STREET SUITE 1900 HOUSTON TX 77010

Total Creditor count 3

EXHIBIT F

GAVILAN RESOURCES, LLC, Case No. 20-32656 (DRJ)
Core/Master Service Email List

Creditor Name	Email Address
CORE GEOLOGIC LLC	DLOWEIE@CORELOGIC.COM
DRILLING INFO INC	INFO@DRILLINGINFO.COM
MITSUI E&P TEXAS LP	K.GOMI@MITSUI.COM
NYSE MARKET (DE), INC.	ASHA.SHAH@THEICE
OFFICE OF UNITED STATES TRUSTEE	Hector.Duran.jr@usdoj.com, stephen.statham@usdoj.gov
SILVERSAND SERVICES INC	MLLOYD@SILVERSANDSERVICES.COM
Simpson Thacher & Bartlett LLP	egraff@stblaw.com
Simpson Thacher & Bartlett LLP	rrabalais@stblaw.com
SN EF MAVERICK LLC	MCAVENAUGH@JW.COM
US ATTORNEY'S OFFICE	usatxs.atty@usdoj.gov
VENADO EF LP	OWNER.RELATIONS@VOGLLC.COM
WGR OPERATING LP	MICHAEL_URE@OXY.COM
MCKOOL SMITH, P.C.	HRAY@MCKOOLSMITH.COM; JSPARACINO@MCKOOLSMITH.COM; VMANNING@MCKOOLSMITH.COM
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP	BRAD.ERIC.SCHELER@FRIEDFRANK.COM; GARY.KAPLAN@FRIEDFRANK.COM; CARL.STAPEN@FRIEDFRANK.COM; BRYAN.CIMALA@FRIEDFRANK.COM
ARNOLD & PORTER KAYE SCHOLER LLP	CHRISTOPHER.ODELL@ARNOLDPORTER.COM; MICHAEL.MESSERSMITH@ARNOLDPORTER.COM; ROSA.EVERGREEN@ARNOLDPORTER.COM

EXHIBIT G

GAVILAN RESOURCES, LLC, Case No. 20-32656 (DRJ)

Utilities Email List

Creditor Name	Email Address
CALLTOWER INC	bengland@calltower.com
LOGIX HOLDING COMPANY, LLC	credit@logix.com
COMCAST	mark.gardiner@cable.comcast.com

EXHIBIT H

GAVILAN RESOURCES, LLC, Case No. 20-32656 (DRJ)

Email list

NAME	EMAIL
MCKOOL SMITH, P.C.	HRAY@MCKOOLSMITH.COM; JSPARACINO@MCKOOLSMITH.COM; VMANNING@MCKOOLSMITH.COM
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP	BRAD.ERIC.SCHELER@FRIEDFRANK.COM; GARY.KAPLAN@FRIEDFRANK.COM; CARL.STAPEN@FRIEDFRANK.COM; BRYAN.CIMALA@FRIEDFRANK.COM
ARNOLD & PORTER KAYE SCHOLER LLP	CHRISTOPHER.ODELL@ARNOLDPORTER.COM; MICHAEL.MESSERSMITH@ARNOLDPORTER.COM; ROSA.EVERGREEN@ARNOLDPORTER.COM

Gavilan Resources, LLC	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	Post-Petition	TOTAL
Weekly Cash Flow Forecast	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	FORECAST	
As of 5/15/20	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	13 Week
Week Ending:	22-May	29-May	5-Jun	12-Jun	19-Jun	26-Jun	3-Jul	10-Jul	17-Jul	24-Jul	31-Jul	7-Aug	14-Aug	22-May
Month:	5	5	6	6	6	6	7	7	7	7	7	8	8	to
Year:	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	14-Aug
Weeks in month	4	4	5	5	5	5	5	4	4	4	4	4	4	
Cash Collections														
Oil Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gas/NGL Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Oil Hedges	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gas Hedges	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NGL Hedges	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Basis Hedges	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LIBOR Hedges	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc. Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Collections	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Operating Disbursements														
Salaries	-	($217,899)	-	-	($217,899)	-	($217,899)	-	($166,486)	-	($166,486)	-	($166,486)	($1,153,154)
Benefits	-	-	($55,748)	-	-	-	($55,748)	($20,000)	-	-	($39,398)	-	-	($170,894)
Board Fees	-	-	($50,000)	-	-	-	($125,000)	-	-	-	-	($50,000)	-	($225,000)
Rent	-	-	($172,319)	-	-	-	($172,319)	-	-	-	-	($172,319)	-	($516,957)
IT / Software	($24,662)	($24,662)	($19,729)	($19,729)	($19,729)	($19,729)	($19,729)	($24,662)	($24,662)	($24,662)	($24,662)	($24,662)	($24,662)	($295,942)
Ordinary Course Professionals	($18,332)	($18,332)	($14,666)	($14,666)	($14,666)	($14,666)	($14,666)	($18,332)	($18,332)	($18,332)	($18,332)	($18,332)	($18,332)	($219,988)
Office Expenses	($850)	($850)	($680)	($680)	($680)	($680)	($680)	($850)	($850)	($850)	($850)	($850)	($850)	($10,200)
All Other G&A	($6,250)	($6,250)	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)	($6,250)	($6,250)	($6,250)	($6,250)	($6,250)	($6,250)	($75,000)
Total Tested Disbursements	**($50,094)**	**($267,993)**	**($318,143)**	**($40,075)**	**($257,974)**	**($40,075)**	**($611,041)**	**($70,094)**	**($216,580)**	**($50,094)**	**($255,978)**	**($272,413)**	**($216,580)**	**($2,667,136)**
SN Cash Call	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Springfield (Gathering)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Working Interest and Royalty Payments	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Production & Ad Valorem Tax	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-Tested Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Cash Flow After Operating Disbursements	**($50,094)**	**($267,993)**	**($318,143)**	**($40,075)**	**($257,974)**	**($40,075)**	**($611,041)**	**($70,094)**	**($216,580)**	**($50,094)**	**($255,978)**	**($272,413)**	**($216,580)**	**($2,667,136)**
Financing Disbursements														
RBL Draw / (Paydown)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RBL Interest	-	($244,768)	-	-	-	-	($398,838)	-	-	-	($409,502)	-	-	($1,053,109)
RBL Agency Fee	-	-	($15,625)	-	-	-	-	-	-	-	-	-	-	($15,625)
RBL Undrawn Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2L Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2L Agency Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Financing Disbursements	-	**($244,768)**	**($15,625)**	-	-	-	**($398,838)**	-	-	-	**($409,502)**	-	-	**($1,068,734)**
Restructuring Disbursements														
Chapter 11 Professional Fees	-	-	-	($185,000)	-	-	($580,000)	($700,000)	-	-	($250,000)	($1,648,000)	($1,257,000)	($4,620,000)
Non-Recurring Severance	-	-	-	-	-	-	($165,092)	-	-	-	-	-	-	($165,092)
D&O (primary/excess)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
KEIP/KERP	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utility Deposit	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Restructuring Disbursements	-	-	-	**($185,000)**	-	-	**($745,092)**	**($700,000)**	-	-	**($250,000)**	**($1,648,000)**	**($1,257,000)**	**($4,785,092)**
Wind Down Reserve														
Professional Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Salaries / Benefits / Board / Severance	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Income Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Production & Ad Valorem Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Corporate Taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Litigation	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental	-	-	-	-	-	-	-	-	-	-	-	-	-	-
IT Systems / Technology	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Administrative and Backoffice Expense	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Wind-down Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Cash Flow	**($50,094)**	**($512,761)**	**($333,768)**	**($225,075)**	**($257,974)**	**($40,075)**	**($1,754,972)**	**($770,094)**	**($216,580)**	**($50,094)**	**($915,480)**	**($1,920,413)**	**($1,473,580)**	**($8,520,962)**
Beginning Balance	$32,132,845	$32,082,751	$31,569,989	$31,236,222	$31,011,146	$30,753,172	$30,713,097	$28,958,125	$28,188,031	$27,971,451	$27,921,357	$27,005,877	$25,085,463	$32,132,845
Net Cash Flow	($50,094)	($512,761)	($333,768)	($225,075)	($257,974)	($40,075)	($1,754,972)	($770,094)	($216,580)	($50,094)	($915,480)	($1,920,413)	($1,473,580)	($8,520,962)
Ending Balance	$32,082,751	$31,569,989	$31,236,222	$31,011,146	$30,753,172	$30,713,097	$28,958,125	$28,188,031	$27,971,451	$27,921,357	$27,005,877	$25,085,463	$23,611,883	$23,611,883
Less: O/S Checks	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
Ending Book Cash	$32,082,751	$31,569,989	$31,236,222	$31,011,146	$30,753,172	$30,713,097	$28,958,125	$28,188,031	$27,971,451	$27,921,357	$27,005,877	$25,085,463	$23,611,883	$23,611,883

Execution Version

INTERCREDITOR AGREEMENT

among

GAVILAN RESOURCES, LLC,
as the Borrower,

the other Grantors party hereto,

JPMORGAN CHASE BANK, N.A.,
as Senior Representative for the
First Lien Credit Agreement Secured Parties,

CITIBANK, N.A.,
as the Junior Representative for the
Second Lien Credit Agreement Secured Parties

and

each additional Representative from time to time party hereto

dated as of March 1, 2017

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Annex II - [Form of] Representative Supplement
Annex III - [Form of] Representative Supplement

INTERCREDITOR AGREEMENT dated as of March 1, 2017 (as amended, supplemented or otherwise modified from time to time, this "Agreement"), among GAVILAN RESOURCES, LLC, a Delaware limited liability company (the "Borrower"), the other Grantors (as defined below) party hereto, JPMORGAN CHASE BANK, N.A., as Representative for the First Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "First Lien Collateral Agent"), CITIBANK, N.A., as Representative for the Second Lien Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "Second Lien Collateral Agent"), and each additional Junior Representative and Senior Representative that from time to time becomes a party hereto pursuant to Section 8.09.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the First Lien Collateral Agent (for itself and on behalf of the First Lien Credit Agreement Secured Parties), the Second Lien Collateral Agent (for itself and on behalf of the Second Lien Credit Agreement Secured Parties), each additional Senior Representative (for itself and on behalf of the Additional Senior Debt Parties under the applicable Additional Senior Debt Facility) and each additional Junior Representative (for itself and on behalf of the Junior Debt Parties under the applicable Junior Debt Facility) agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Certain Defined Terms. Capitalized terms used but not otherwise defined herein have the meanings set forth in the First Lien Credit Agreement as in effect on the date hereof or, if defined in the New York UCC, the meanings specified therein. As used in this Agreement, the following terms have the meanings specified below:

"Additional Junior Debt" means any Indebtedness that is issued or guaranteed by the Borrower and/or any other Grantor (and not guaranteed by any Subsidiary that is not a Guarantor) (other than Indebtedness constituting Second Lien Credit Agreement Obligations), which Indebtedness and guarantees are secured by the Junior Collateral (or any portion thereof) on a *pari passu* basis (but without regard to control of remedies, other than as provided by the terms of the applicable Additional Junior Debt Documents) with or on a junior basis to the Second Lien Credit Agreement Obligations and any other Junior Debt Obligations and which the applicable Additional Junior Debt Documents provide that such Indebtedness and guarantees are to be secured by such Junior Collateral on a subordinate basis to the Senior Debt Obligations (and which is not secured by Liens on any assets of the Borrower or any other Grantor other than the Junior Collateral or which are not included in the Senior Collateral); provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Debt Document and Junior Debt Document and (ii) the Representative for the holders of such Indebtedness shall have become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 8.09 hereof. Additional Junior Debt shall include any Registered Equivalent Notes and Guarantees thereof by the Guarantors issued in exchange therefor.

"Additional Junior Debt Documents" means, with respect to any series, issue or class of Additional Junior Debt, the Additional Junior Debt Facility relating thereto, the Junior Collateral Documents relating thereto and each other operative agreement relating thereto.

"Additional Junior Debt Facility" means each credit agreement, indenture or other governing agreement with respect to any Additional Junior Debt.

"Additional Junior Debt Obligations" means, with respect to any series, issue or class of Additional Junior Debt, all amounts owing pursuant to the terms of such Additional Junior Debt,

including, without limitation, the obligation (including guarantee obligations) to pay principal, interest (including interest that accrues after the commencement of a Bankruptcy Case, regardless of whether such interest is an allowed claim under such Bankruptcy Case), letter of credit commissions, reimbursement obligations, charges, expenses, fees, attorneys costs, indemnities and other amounts payable by a Grantor under any Additional Junior Debt Document.

"Additional Junior Debt Parties" means, with respect to any series, issue or class of Additional Junior Debt, the holders of such Indebtedness, the Representative with respect thereto, any trustee or agent therefor under any related Additional Junior Debt Documents and the beneficiaries of each indemnification obligation undertaken by the Borrower or any other Grantor under any related Additional Junior Debt Documents.

"Additional Senior Debt" means any Indebtedness that is issued or guaranteed by the Borrower and/or any Guarantor (other than Indebtedness constituting First Lien Credit Agreement Obligations) which Indebtedness and Guarantees are secured by the Senior Collateral (or a portion thereof) on a *pari passu* basis (but without regard to control of remedies) with the First Lien Credit Agreement Obligations; provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by each then extant Senior Debt Document and Junior Debt Document and (ii) the Representative for the holders of such Indebtedness shall have (A) executed and delivered this Agreement as of the date hereof or become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 8.09 hereof and (B) become a party to the First Lien Intercreditor Agreement pursuant to, and by satisfying the conditions set forth in, Section 5.13 thereof; provided further that, if such Indebtedness will be the initial Additional Senior Debt incurred by the Borrower, then the Guarantors, the First Lien Collateral Agent and the Representative for such Indebtedness shall have executed and delivered the First Lien Intercreditor Agreement. Additional Senior Debt shall include any Registered Equivalent Notes and Guarantees thereof by the Guarantors issued in exchange therefor.

"Additional Senior Debt Documents" means, with respect to any series, issue or class of Additional Senior Debt, the Additional Senior Debt Facility relating thereto, the Senior Collateral Documents relating thereto and each other operative agreement relating thereto.

"Additional Senior Debt Facility" means each credit agreement, indenture or other governing agreement with respect to any Additional Senior Debt.

"Additional Senior Debt Obligations" means, with respect to any series, issue or class of Additional Senior Debt, all amounts owing pursuant to the terms of such Additional Senior Debt, including, without limitation, the obligation (including guarantee obligations) to pay principal, interest (including interest that accrues after the commencement of a Bankruptcy Case, regardless of whether such interest is an allowed claim under such Bankruptcy Case), letter of credit commissions, reimbursement obligations, charges, expenses, fees, attorneys costs, indemnities and other amounts payable by a Grantor under any Additional Senior Debt Document.

"Additional Senior Debt Parties" means, with respect to any series, issue or class of Additional Senior Debt, the holders of such Indebtedness, the Representative with respect thereto, any trustee or agent therefor under any related Additional Senior Debt Documents and the beneficiaries of each indemnification obligation undertaken by the Borrower or any Guarantor under any related Additional Senior Debt Documents.

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

"Bankruptcy Case" means a case under the Bankruptcy Code or any other Bankruptcy Law.

"Bankruptcy Code" means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

"Bankruptcy Law" means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

"Borrower" has the meaning assigned to such term in the introductory paragraph of this Agreement.

"Class Debt" has the meaning assigned to such term in Section 8.09.

"Class Debt Parties" has the meaning assigned to such term in Section 8.09.

"Collateral" means the Senior Collateral and the Junior Collateral.

"Collateral Documents" means the Senior Collateral Documents and the Junior Collateral Documents.

"Debt Facility" means any Senior Facility and any Junior Debt Facility.

"Designated Junior Representative" means (a) for so long as any Second Lien Credit Agreement Obligations remain outstanding, the Second Lien Collateral Agent, and (b) thereafter, (i) at any time that any Junior Lien Intercreditor Agreement is in effect, the "Designated Senior Representative" (or similar term) as defined in such Junior Lien Intercreditor Agreement, and (ii) at any other time, the Junior Representative designated from time to time by the Junior Majority Representatives, in a notice to the Designated Senior Representative and the Borrower hereunder, as the "Designated Junior Representative" for purposes hereof.

"Designated Senior Representative" means (a) if at any time there is only one Senior Representative for a Senior Facility with respect to which the Discharge of Senior Obligations has not occurred, such Senior Representative and (b) at any time when clause (a) does not apply and the First Lien Intercreditor Agreement has been executed and delivered, the Person designated for such purpose in the First Lien Intercreditor Agreement at such time.

"DIP Financing" has the meaning assigned to such term in Section 6.01.

"Discharge" means, with respect to any Shared Collateral and any Debt Facility, the date on which such Debt Facility and the Senior Obligations or Junior Debt Obligations thereunder, as the case may be, are no longer secured by such Shared Collateral pursuant to the terms of the documentation governing such Debt Facility. The term "Discharged" shall have a corresponding meaning.

"Discharge of First Lien Credit Agreement Obligations" means, with respect to any Shared Collateral, the Discharge of the First Lien Credit Agreement Obligations with respect to such Shared Collateral; provided that the Discharge of First Lien Credit Agreement Obligations shall not be deemed to have occurred in connection with a Refinancing of such First Lien Credit Agreement Obligations with an Additional Senior Debt Facility secured by such Shared Collateral under one or more Additional Senior Debt Documents which has been designated in writing by the First Lien Collateral Agent (under the First Lien Credit Agreement so Refinanced) to the Designated Senior Representative as the "First Lien Credit Agreement" for purposes of this Agreement.

"Discharge of Senior Obligations" means the date on which the Discharge of First Lien Credit Agreement Obligations and the Discharge of each Additional Senior Debt Facility has occurred.

"First Lien Collateral Agent" has the meaning assigned to such term in the introductory paragraph of this Agreement and shall include any successor Collateral Agent under the First Lien Credit Agreement.

"First Lien Credit Agreement" means that certain Credit Agreement, dated as of the date hereof, among the Borrower, the lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, the First Lien Collateral Agent and the other parties thereto, as further amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"First Lien Credit Agreement Credit Documents" means the First Lien Credit Agreement and the other "Credit Documents" as defined in the First Lien Credit Agreement.

"First Lien Credit Agreement Obligations" means the "Obligations" as defined in the First Lien Credit Agreement.

"First Lien Credit Agreement Secured Parties" means the "Secured Parties" as defined in the First Lien Credit Agreement.

"First Lien Intellectual Property Security Agreement" means any Intellectual Property (as defined in the First Lien Security Agreement) security agreement delivered pursuant to the First Lien Security Agreement.

"First Lien Intercreditor Agreement" has the meaning assigned to such term in the First Lien Credit Agreement.

"First Lien Mortgages" means the "Mortgages" as defined in the First Lien Credit Agreement.

"First Lien Security Agreement" means the "Collateral Agreement" as defined in the First Lien Credit Agreement.

"Grantors" means the Borrower, the other Guarantors, and each of their respective Subsidiaries or direct or indirect parent company of the Borrower which has granted a security interest pursuant to any Collateral Document to secure any Secured Obligations. The Grantors existing on the date hereof are listed on the signature pages hereto as Grantors.

"Guarantors" has the meaning assigned to such term in the First Lien Credit Agreement.

"Insolvency or Liquidation Proceeding" means:

(1) any case commenced by or against the Borrower or any other Grantor under any Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of the Borrower or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Borrower or any other Grantor or any similar case or proceeding relative to the Borrower or any other Grantor or its creditors, as such, in each case whether or not voluntary;

(2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Borrower or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(3) any other proceeding of any type or nature in which substantially all claims of creditors of the Borrower or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

"Intellectual Property" has the meaning assigned to such term in the First Lien Intellectual Property Security Agreement.

"Joinder Agreement" means a supplement to this Agreement in substantially the form of Annex II or Annex III hereof.

"Junior Class Debt" has the meaning assigned to such term in Section 8.09.

"Junior Class Debt Parties" has the meaning assigned to such term in Section 8.09.

"Junior Collateral" means any "Collateral" as defined in any Second Lien Credit Agreement Credit Document or any other Junior Debt Document or any other assets of the Borrower or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Junior Collateral Document as security for any Junior Debt Obligation.

"Junior Collateral Documents" means the Second Lien Mortgages, the Second Lien Security Agreement, the Second Lien Intellectual Property Security Agreement, the other "Collateral Documents" as defined in the Second Lien Credit Agreement and each of the mortgages, deeds of trust, collateral agreements, security agreements and other instruments and documents executed and delivered by the Borrower or any other Grantor for purposes of providing collateral security for any Junior Debt Obligation.

"Junior Debt" means any Second Lien Credit Agreement Obligations and any Additional Junior Debt.

"Junior Debt Documents" means the Second Lien Credit Agreement Credit Documents and any Additional Junior Debt Documents.

"Junior Debt Facilities" means the Second Lien Credit Agreement and any Additional Junior Debt Facilities.

"Junior Debt Obligations" means the Second Lien Credit Agreement Obligations and any Additional Junior Debt Obligations.

"Junior Debt Parties" means the Second Lien Credit Agreement Secured Parties and any Additional Junior Debt Parties.

"Junior Enforcement Date" means, with respect to any Junior Representative, the date which is 180 days after the occurrence of both (a) an Event of Default (under and as defined in the Junior Debt Document for which such Junior Representative has been named as Representative) and (b) the Designated Senior Representative's and each other Representative's receipt of written notice from such Junior Representative that (i) such Junior Representative is the Designated Junior Representative and that an Event of Default (under and as defined in the Junior Debt Document for which such Junior

Representative has been named as Representative) has occurred and is continuing and (ii) the Junior Debt Obligations of the series with respect to which such Junior Representative is the Junior Representative are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Junior Debt Document; provided that the Junior Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Shared Collateral (I) at any time the Designated Senior Representative has commenced and is diligently pursuing any enforcement action with respect to such Shared Collateral or (II) at any time the Grantor which has granted a security interest in such Shared Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.

"Junior Lien" means the Liens on the Junior Collateral in favor of Junior Debt Parties under Junior Collateral Documents.

"Junior Lien Intercreditor Agreement" means any intercreditor agreement among one or more Junior Representatives pursuant to which the Junior Liens in favor of one or more Junior Representatives is subordinated to the Junior Liens in favor of one or more other Junior Representatives.

"Junior Majority Representatives" means Junior Representatives representing at least a majority of the then aggregate amount of Junior Debt Obligations that agree to vote together.

"Junior Representative" means (a) in the case of the Second Lien Credit Agreement Obligations, the Second Lien Collateral Agent and (b) in the case of any Junior Debt Facility incurred after the date hereof, the Junior Debt Parties thereunder, the trustee, administrative agent, collateral agent, security agent or similar agent under such Junior Debt Facility that is named as the Representative in respect of such Junior Debt Facility in the applicable Joinder Agreement.

"Lien" shall mean, with respect to any asset, (a) any mortgage, preferred mortgage, deed of trust, lien, notice of claim of lien, hypothecation, pledge, charge, security interest or similar encumbrance in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset or (c) Production Payments and Reserve Sales and the like payable out of Oil and Gas Properties; provided that in no event shall an operating lease be deemed to be a Lien.

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

"Officer's Certificate" has the meaning provided to such term in Section 8.08.

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

"Pledged or Controlled Collateral" has the meaning assigned to such term in Section 5.05(a).

"Proceeds" means the proceeds of any sale, collection or other liquidation of Shared Collateral and any payment or distribution made in respect of Shared Collateral in a Bankruptcy Case and any amounts received by any Senior Representative or any Senior Secured Party from a Junior Debt Party in respect of Shared Collateral pursuant to this Agreement.

"Recovery" has the meaning assigned to such term in Section 6.04.

"Refinance" means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter into alternative financing arrangements, in exchange or replacement for such indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including, in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. "Refinanced" and "Refinancing" have correlative meanings.

"Registered Equivalent Notes" means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act of 1933, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"Representatives" means the Senior Representatives and the Junior Representatives.

"SEC" means the United States Securities and Exchange Commission and any successor agency thereto.

"Second Lien Credit Agreement" means that certain Credit Agreement, dated as of the date hereof, among the Borrower, the guarantors from time to time party thereto, the lenders from time to time party thereto, Citibank, N.A., as administrative agent, the Second Lien Collateral Agent and the other parties thereto, as further amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"Second Lien Credit Agreement Credit Documents" means the Second Lien Credit Agreement and the other "Credit Documents" as defined in the Second Lien Credit Agreement.

"Second Lien Credit Agreement Obligations" means the "Obligations" as defined in the Second Lien Credit Agreement.

"Second Lien Credit Agreement Secured Parties" means the "Secured Parties" as defined in the Second Lien Credit Agreement.

"Second Lien Intellectual Property Security Agreement" means any Intellectual Property (as defined in the Second Lien Security Agreement) security agreement delivered pursuant to the Second Lien Security Agreement.

"Second Lien Mortgages" means the "Mortgages" as defined in the Second Lien Credit Agreement.

"Second Lien Security Agreement" means the "Collateral Agreement" as defined in the Second Lien Credit Agreement.

"Secured Obligations" means the Senior Obligations and the Junior Debt Obligations.

"Secured Parties" means the Senior Secured Parties and the Junior Debt Parties.

"Senior Class Debt" has the meaning assigned to such term in Section 8.09.

"Senior Class Debt Parties" has the meaning assigned to such term in Section 8.09.

"Senior Collateral" means any "Collateral" as defined in any First Lien Credit Agreement Credit Document or any other Senior Debt Document or any other assets of the Borrower or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Senior Collateral Document as security for any Senior Obligations.

"Senior Collateral Documents" means the First Lien Mortgages, the First Lien Security Agreement, the First Lien Intellectual Property Security Agreement and the other "Collateral Documents" as defined in the First Lien Credit Agreement, the First Lien Intercreditor Agreement (upon and after the initial execution and delivery thereof by the initial parties thereto) and each of the mortgages, deeds of trust, collateral agreements, security agreements and other instruments and documents executed and delivered by the Borrower or any other Grantor for purposes of providing collateral security for any Senior Obligation.

"Senior Debt Documents" means the First Lien Credit Agreement Credit Documents and any Additional Senior Debt Documents.

"Senior Facilities" means the First Lien Credit Agreement and any Additional Senior Debt Facilities.

"Senior Lien" means the Liens on the Senior Collateral in favor of the Senior Secured Parties under the Senior Collateral Documents.

"Senior Obligations" means the First Lien Credit Agreement Obligations and any Additional Senior Debt Obligations; provided that the aggregate principal amount of debt for borrowed money constituting Senior Obligations shall not exceed the amount of such debt permitted to be incurred in accordance with the terms of the Junior Debt Documents.

"Senior Representative" means (a) in the case of any First Lien Credit Agreement Obligations or the First Lien Credit Agreement Secured Parties, the First Lien Collateral Agent and (b) in the case of any Additional Senior Debt Facility and the Additional Senior Debt Parties thereunder, the trustee, administrative agent, collateral agent, security agent or similar agent under such Additional Senior Debt Facility that is named as the Representative in respect of such Additional Senior Debt Facility hereunder or in the applicable Joinder Agreement.

"Senior Secured Parties" means the First Lien Credit Agreement Secured Parties and any Additional Senior Debt Parties.

"Shared Collateral" means, at any time, Collateral in which the holders of Senior Obligations under at least one Senior Facility and the holders of Junior Debt Obligations under at least one Junior Debt Facility (or their Representatives) hold a security interest at such time (or, in the case of the Senior Facilities, are deemed pursuant to Article II to hold a security interest). If, at any time, any portion of the Senior Collateral under one or more Senior Facilities does not constitute Junior Collateral under one or more Junior Debt Facilities, then such portion of such Senior Collateral shall constitute Shared Collateral only with respect to the Junior Debt Facilities for which it constitutes Junior Collateral and shall not constitute Shared Collateral for any Junior Debt Facility which does not have a security interest in such Collateral at such time.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially

owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Uniform Commercial Code" or "UCC" means, unless otherwise specified, the Uniform Commercial Code as from time to time in effect in the State of New York.

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument, other document, statute or regulation herein shall be construed as referring to such agreement, instrument, other document, statute or regulation as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (c) 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, (d) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (e) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) the term "or" is not exclusive.

ARTICLE II
PRIORITIES AND AGREEMENTS WITH RESPECT TO SHARED COLLATERAL

Section 2.01 Subordination. (a) Notwithstanding the date, time, manner or order of filing or recordation of any document or instrument or grant, attachment or perfection of any Liens granted to any Junior Representative or any Junior Debt Parties on the Shared Collateral or of any Liens granted to any Senior Representative or any other Senior Secured Party on the Shared Collateral (or any actual or alleged defect in any of the foregoing) and notwithstanding any provision of the UCC, any applicable law, any Junior Debt Document or any Senior Debt Document or any other circumstance whatsoever, each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, hereby agrees that (a) any Lien on the Shared Collateral securing any Senior Obligations now or hereafter held by or on behalf of any Senior Representative or any other Senior Secured Party or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Shared Collateral securing any Junior Debt Obligations and (b) any Lien on the Shared Collateral securing any Junior Debt Obligations now or hereafter held by or on behalf of any Junior Representative, any Junior Debt Parties or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Shared Collateral securing any Senior Obligations. All Liens on the Shared Collateral securing any Senior Obligations shall be and remain senior in all respects and prior to all Liens on the Shared Collateral securing any Junior Debt Obligations for all purposes, whether or not such Liens securing any Senior Obligations are subordinated to any Lien securing any other obligation of the Borrower, any Grantor or any other Person or otherwise subordinated, voided, avoided, invalidated or lapsed.

Section 2.02 Nature of Senior Lender Claims. Each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, acknowledges that (a) a portion of the Senior Obligations is revolving in nature and that the amount thereof that may be outstanding at any time or from

time to time may be increased or reduced and subsequently reborrowed, (b) the terms of the Senior Debt Documents and the Senior Obligations may be amended, supplemented or otherwise modified, and the Senior Obligations, or a portion thereof, may be Refinanced from time to time and (c) the aggregate amount of the Senior Obligations may be increased, in each case, without notice to or consent by the Junior Representatives or the Junior Debt Parties and without affecting the provisions hereof. The Lien priorities provided for in Section 2.01 shall not be altered or otherwise affected by any amendment, supplement or other modification, or any Refinancing, of either the Senior Obligations or the Junior Debt Obligations, or any portion thereof. As between the Borrower and the other Grantors and the Junior Debt Parties, the foregoing provisions will not limit or otherwise affect the obligations of the Borrower and the Grantors contained in any Junior Debt Document with respect to the incurrence of additional Senior Obligations.

Section 2.03 Prohibition on Contesting Liens. Each of the Junior Representatives, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any Senior Obligations held (or purported to be held) by or on behalf of any Senior Representative or any of the other Senior Secured Parties or other agent or trustee therefor in any Senior Collateral, and each Senior Representative, for itself and on behalf of each Senior Secured Party with respect to its Senior Facility, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any Junior Debt Obligations held (or purported to be held) by or on behalf of any of any Junior Representative or any of the Junior Debt Parties in the Junior Collateral. Notwithstanding the foregoing, no provision in this Agreement shall be construed to prevent or impair the rights of any Senior Representative to enforce this Agreement (including the priority of the Liens securing the Senior Obligations as provided in Section 2.01) or any of the Senior Debt Documents.

Section 2.04 No Other Liens. The parties hereto agree that, so long as the Discharge of Senior Obligations has not occurred, none of the Grantors shall, or shall permit any of its subsidiaries to, grant or permit any Lien on any asset to secure any Junior Debt Obligation unless it has granted, or concurrently therewith grants, a Lien on such asset to secure the Senior Obligations. To the extent that the provisions of the immediately preceding sentence are not complied with for any reason, without limiting any other right or remedy available to any Senior Representative or any other Senior Secured Party, each Junior Representative agrees, for itself and on behalf of the other Junior Debt Parties, that any amounts received by or distributed to any Junior Debt Party pursuant to or as a result of any Lien granted in contravention of this Section 2.04 shall be subject to Section 4.02.

Section 2.05 Perfection of Liens. Except for the limited agreements of the Senior Representatives pursuant to Section 5.05 hereof, none of the Senior Representatives or the Senior Secured Parties shall be responsible for perfecting and maintaining the perfection of Liens with respect to the Shared Collateral for the benefit of the Junior Representatives or the Junior Debt Parties. The provisions of this Agreement are intended solely to govern the respective Lien priorities as between the Senior Secured Parties and the Junior Debt Parties and shall not impose on the Senior Representatives, the Senior Secured Parties, the Junior Representatives, the Junior Debt Parties or any agent or trustee therefor any obligations in respect of the disposition of Proceeds of any Shared Collateral which would conflict with prior perfected claims therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable law.

Section 2.06 Certain Cash Collateral. Notwithstanding anything in this Agreement or any other Senior Debt Documents or Junior Debt Documents to the contrary, collateral consisting of cash and

cash equivalents pledged to secure First Lien Credit Agreement Obligations consisting of reimbursement obligations in respect of Letters of Credit or otherwise held by the First Lien Collateral Agent pursuant to the First Lien Credit Agreement or any other provision of the First Lien Credit Documents shall be applied as specified in the First Lien Credit Agreement and will not constitute Shared Collateral.

ARTICLE III
ENFORCEMENT

Section 3.01 Exercise of Remedies.

(a) So long as the Discharge of Senior Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower or any other Grantor,

(i) neither any Junior Representative nor any Junior Debt Party will:

(A) exercise or seek to exercise any rights or remedies (including setoff) with respect to any Shared Collateral in respect of any Junior Debt Obligations, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure),

(B) contest, protest or object to any foreclosure proceeding or action brought with respect to the Shared Collateral or any other Senior Collateral by any Senior Representative or any Senior Secured Party in respect of the Senior Obligations, the exercise of any right by any Senior Representative or any Senior Secured Party (or any agent or sub-agent on their behalf) in respect of the Senior Obligations under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any Senior Representative or any Senior Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any such party of any rights and remedies relating to the Shared Collateral under the Senior Debt Documents or otherwise in respect of the Senior Collateral or the Senior Obligations, or

(C) object to the forbearance by the Senior Secured Parties from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Shared Collateral in respect of Senior Obligations; and

(ii) the Senior Representatives and the Senior Secured Parties shall have the exclusive right to enforce rights, exercise remedies (including setoff and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Shared Collateral without any consultation with or the consent of any Junior Representative or any Junior Debt Party; provided, however, that

(A) in any Insolvency or Liquidation Proceeding commenced by or against the Borrower or any other Grantor, any Junior Representative may file a claim or statement of interest with respect to the Junior Debt Obligations under its Junior Debt Facility,

(B) any Junior Representative may take any action (not adverse to the prior Liens on the Shared Collateral securing the Senior Obligations or the rights of the Senior Representatives or the Senior Secured Parties to exercise remedies in respect thereof) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, the Shared Collateral,

(C) any Junior Representative and the Junior Secured Parties may exercise their rights and remedies as unsecured creditors, to the extent provided in Section 5.04,

(D) the Junior Debt Parties may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Junior Debt Parties or the avoidance of any Junior Lien to the extent not inconsistent with the terms of this Agreement, and

(E) from and after the Junior Enforcement Date, the Designated Junior Representative may exercise or seek to exercise any rights or remedies (including setoff) with respect to any Shared Collateral in respect of any Junior Debt Obligations, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure).

In exercising rights and remedies with respect to the Senior Collateral, the Senior Representatives and the Senior Secured Parties may enforce the provisions of the Senior Debt Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Shared Collateral upon foreclosure, to incur expenses in connection with such sale or disposition and to exercise all the rights and remedies of a secured lender under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(b) So long as the Discharge of Senior Obligations has not occurred, except as expressly provided in the proviso in clause (ii) of Section 3.01(a), each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, agrees that it will not, in the context of its role as secured creditor, take or receive any Shared Collateral or any Proceeds of Shared Collateral in connection with the exercise of any right or remedy (including setoff) with respect to any Shared Collateral in respect of Junior Debt Obligations. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Obligations has occurred, except as expressly provided in the proviso in clause (ii) of Section 3.01(a), the sole right of the Junior Representatives and the Junior Debt Parties with respect to the Shared Collateral is to hold a Lien on the Shared Collateral in respect of Junior Debt Obligations pursuant to the Junior Debt Documents for the period and to the extent granted therein and to receive a share of the Proceeds thereof, if any, after the Discharge of Senior Obligations has occurred.

(c) Subject to the proviso in clause (ii) of Section 3.01(a), (i) each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that neither such Junior Representative nor any such Junior Debt Party will take any action that would hinder any exercise of remedies undertaken by any Senior Representative or any Senior Secured Party with respect to the Shared Collateral under the Senior Debt Documents, including any sale, lease, exchange, transfer or other disposition of the Shared Collateral, whether by foreclosure or otherwise, and (ii) each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby waives any and all rights it or any such Junior Debt Party may have as a junior lien creditor or otherwise to object to the manner in which the Senior Representatives or the Senior Secured Parties seek to enforce or collect the Senior Obligations or the Liens granted on any of the Senior Collateral, regardless of whether any action or failure to act by or on behalf of any Senior Representative or any other Senior Secured Party is adverse to the interests of the Junior Debt Parties.

(d) Each Junior Representative hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Junior Debt Document shall be deemed to restrict in any way

the rights and remedies of the Senior Representatives or the Senior Secured Parties with respect to the Senior Collateral as set forth in this Agreement and the Senior Debt Documents.

(e) Subject to Section 3.01(a), the Designated Senior Representative shall have the exclusive right to exercise any right or remedy with respect to the Shared Collateral and shall have the exclusive right to determine and direct the time, method and place for exercising such right or remedy or conducting any proceeding with respect thereto. Following the Discharge of Senior Obligations, the Designated Junior Representative who may be instructed by the Junior Majority Representatives shall have the exclusive right to exercise any right or remedy with respect to the Collateral, and the Designated Junior Representative who may be instructed by the Junior Majority Representatives shall have the exclusive right to direct the time, method and place of exercising or conducting any proceeding for the exercise of any right or remedy available to the Junior Debt Parties with respect to the Collateral, or of exercising or directing the exercise of any trust or power conferred on the Junior Representatives, or for the taking of any other action authorized by the Junior Collateral Documents; provided, however, that nothing in this Section 3.01(e) shall impair the right of any Junior Representative or other agent or trustee acting on behalf of the Junior Debt Parties to take such actions with respect to the Collateral after the Discharge of Senior Obligations as may be otherwise required or authorized pursuant to any intercreditor agreement governing the Junior Debt Parties or the Junior Debt Obligations.

Section 3.02 Cooperation. Subject to the proviso in clause (ii) of Section 3.01(a), each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, agrees that, unless and until the Discharge of Senior Obligations has occurred, it will not commence, or join with any Person (other than the Senior Secured Parties and the Senior Representatives upon the request of the Designated Senior Representative) in commencing, any enforcement, collection, execution, levy or foreclosure action or proceeding with respect to any Lien held by it in the Shared Collateral under any of the Junior Debt Documents or otherwise in respect of the Junior Debt Obligations.

Section 3.03 Actions upon Breach. Should any Junior Representative or any Junior Debt Party, contrary to this Agreement, in any way take, attempt to take or threaten to take any action with respect to the Shared Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement) or fail to take any action required by this Agreement, any Senior Representative or other Senior Secured Party (in its or their own name or in the name of the Borrower or any other Grantor) or the Borrower may obtain relief against such Junior Representative or such Junior Debt Party by injunction, specific performance or other appropriate equitable relief. Each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Facility, hereby (a) agrees that the Senior Secured Parties' damages from the actions of the Junior Representatives or any Junior Debt Party may at that time be difficult to ascertain and may be irreparable and waives any defense that the Borrower, any other Grantor or the Senior Secured Parties cannot demonstrate damage or be made whole by the awarding of damages and (b) irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any Senior Representative or any other Senior Secured Party.

ARTICLE IV
PAYMENTS

Section 4.01 Application of Proceeds. After an event of default under any Senior Debt Document has occurred and until such event of default is cured or waived, so long as the Discharge of Senior Obligations has not occurred, the Shared Collateral or Proceeds thereof received in connection with the sale or other disposition of, or collection or realization on, such Shared Collateral, or upon the exercise of any right or remedy (including setoff) relating to the Shared Collateral, shall be applied by the Designated Senior Representative to the Senior Obligations in such order as specified in the relevant

Senior Debt Documents (including the First Lien Intercreditor Agreement) until the Discharge of Senior Obligations has occurred. Upon the Discharge of Senior Obligations, each applicable Senior Representative shall deliver promptly to the Designated Junior Representative any Shared Collateral or Proceeds thereof held by it in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct, to be applied by the Designated Junior Representative to the Junior Debt Obligations in such order as specified in the relevant Junior Debt Documents.

Section 4.02 Payments Over. Unless and until the Discharge of Senior Obligations has occurred, any Shared Collateral or Proceeds thereof received by any Junior Representative or any Junior Debt Party in connection with (a) any Insolvency or Liquidation Proceeding, (b) the exercise of any right or remedy (including setoff) relating to the Shared Collateral, in contravention of this Agreement or otherwise, or (c) in contravention of this Agreement, shall be segregated and held in trust for the benefit of and forthwith paid over to the Designated Senior Representative for the benefit of the Senior Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The Designated Senior Representative is hereby authorized to make any such endorsements as agent for each of the Junior Representatives or any such Junior Debt Party. This authorization is coupled with an interest and is irrevocable.

ARTICLE V
OTHER AGREEMENTS

Section 5.01 Releases.

(a) Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that, in the event of a sale, transfer or other disposition of any specified item of Shared Collateral (including all or substantially all of the equity interests of any subsidiary of the Borrower) other than a release granted upon or following the Discharge of Senior Obligations, the Liens granted to the Junior Representatives and the Junior Debt Parties upon such Shared Collateral to secure Junior Debt Obligations shall terminate and be released, automatically and without any further action, concurrently with the termination and release of all Liens granted upon such Shared Collateral to secure Senior Obligations; provided that, in the case of any such sale, transfer or other disposition of Shared Collateral (other than any sale, transfer or other disposition in connection with the enforcement or exercise of any rights or remedies with respect to the Shared Collateral), the Liens granted to the Junior Representatives and the Junior Debt Parties shall not be so released if such sale, transfer or other disposition is not permitted under the terms of any extant Junior Debt Document. Upon delivery to a Junior Representative of an Officer's Certificate stating that any such termination and release of Liens securing the Senior Obligations has become effective (or shall become effective concurrently with such termination and release of the Liens granted to the Junior Debt Parties and the Junior Representatives) and any necessary or proper instruments of termination or release prepared by the Borrower or any other Grantor, such Junior Representative will promptly execute, deliver or acknowledge, at the Borrower's or the other Grantor's sole cost and expense, such instruments to evidence such termination and release of the Liens. Nothing in this Section 5.01(a) will be deemed to affect any agreement of a Junior Representative, for itself and on behalf of the Junior Debt Parties under its Junior Debt Facility, to release the Liens on the Junior Collateral as set forth in the relevant Junior Debt Documents.

(b) Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby irrevocably constitutes and appoints the Designated Senior Representative and any officer or agent of the Designated Senior Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Junior Representative or such Junior Debt Party or in the Designated Senior Representative's own name, from time to time in the Designated Senior Representative's discretion, for

the purpose of carrying out the terms of Section 5.01(a), to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of Section 5.01(a), including any termination statements, endorsements or other instruments of transfer or release.

(c) Unless and until the Discharge of Senior Obligations has occurred, each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby consents to the application, whether prior to or after an event of default under any Senior Debt Document of proceeds of Shared Collateral to the repayment of Senior Obligations pursuant to the Senior Debt Documents, provided that nothing in this Section 5.01(c) shall be construed to prevent or impair the rights of the Junior Representatives or the Junior Debt Parties to receive proceeds in connection with the Junior Debt Obligations not otherwise in contravention of this Agreement.

(d) Notwithstanding anything to the contrary in any Junior Collateral Document, in the event the terms of a Senior Collateral Document and a Junior Collateral Document each require any Grantor:

(i) to make payment in respect of any item of Shared Collateral to,

(ii) to deliver or afford control over any item of Shared Collateral to, or deposit any item of Shared Collateral with,

(iii) to register ownership of any item of Shared Collateral in the name of or make an assignment of ownership of any Shared Collateral or the rights thereunder to,

(iv) cause any securities intermediary, commodity intermediary or other Person acting in a similar capacity to agree to comply, in respect of any item of Shared Collateral, with instructions or orders from, or to treat, in respect of any item of Shared Collateral, as the entitlement holder,

(v) hold any item of Shared Collateral in trust for (to the extent such item of Shared Collateral cannot be held in trust for multiple parties under applicable law),

(vi) obtain the agreement of a bailee or other third party to hold any item of Shared Collateral for the benefit of or subject to the control of or, in respect of any item of Shared Collateral, to follow the instructions of, or

(vii) obtain the agreement of a landlord with respect to access to leased premises where any item of Shared Collateral is located or waivers or subordination of rights with respect to any item of Shared Collateral in favor of,

both the Designated Senior Representative and any Junior Representative or Junior Debt Party, such Grantor may, until the applicable Discharge of Senior Obligations has occurred, comply with such requirement under the Junior Collateral Document as it relates to such Shared Collateral by taking any of the actions set forth above only with respect to, or in favor of, the Designated Senior Representative.

Section 5.02 Insurance and Condemnation Awards. Unless and until the Discharge of Senior Obligations has occurred, the Designated Senior Representative and the Senior Secured Parties shall have the sole and exclusive right, subject to the rights of the Grantors under the Senior Debt Documents:

(a) to be named as additional insured and loss payee under any insurance policies maintained from time to time by any Grantor,

(b) to adjust settlement for any insurance policy covering the Shared Collateral in the event of any loss thereunder, and

(c) to approve any award granted in any condemnation or similar proceeding affecting the Shared Collateral.

Unless and until the Discharge of Senior Obligations has occurred, all proceeds of any such policy and any such award, if in respect of the Shared Collateral, shall be paid:

(i) first, prior to the occurrence of the Discharge of Senior Obligations, to the Designated Senior Representative for the benefit of Senior Secured Parties pursuant to the terms of the Senior Debt Documents (including the First Lien Intercreditor Agreement),

(ii) second, after the occurrence of the Discharge of Senior Obligations, to the Designated Junior Representative for the benefit of the Junior Debt Parties pursuant to the terms of the applicable Junior Debt Documents, and

(iii) third, after the occurrence of the Discharge of Senior Obligations and if no Junior Debt Obligations are outstanding, to the owner of the subject property or such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct.

If any Junior Representative or any Junior Debt Party shall, at any time, receive any proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such proceeds over to the Designated Senior Representative in accordance with the terms of Section 4.02.

Section 5.03 Amendments to Debt Documents.

(a) The Senior Debt Documents may be amended, restated, supplemented or otherwise modified in accordance with their terms, and the Indebtedness under the Senior Debt Documents may be Refinanced, in each case, without the consent of any Junior Debt Party; provided, however, that, without the consent of the Junior Majority Representatives, no such amendment, restatement, supplement, modification or Refinancing (or successive amendments, restatements, supplements, modifications or Refinancings) shall contravene any provision of this Agreement.

(b) Without the prior written consent of the Senior Representatives, no Junior Debt Document may be amended, restated, supplemented or otherwise modified, or entered into, and no Indebtedness under the Junior Debt Documents may be Refinanced, to the extent such amendment, restatement, supplement or modification or Refinancing, or the terms of such new Junior Debt Document, would (i) contravene the provisions of this Agreement, (ii) change to earlier dates any scheduled dates for payment of principal (including the final maturity date) or of interest on Indebtedness under such Junior Debt Document or (iii) reduce the capacity to incur Indebtedness for borrowed money constituting Senior Obligations to an amount less than the greater of (A) the aggregate principal amount of term loans and aggregate principal amount of revolving commitments, in each case, under the Senior Debt Documents on the day of such amendment, restatement, supplement, modification or Refinancing and (B) during any period that the borrowing base under the Senior Debt Documents is subject to a Fixed Amount or other "floor" amount, such Fixed Amount or other "floor" amount.

(c) Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that each Junior Collateral Document relating to its Junior Debt Facility shall include the following language (or language to similar effect reasonably approved by the Designated Senior Representative):

> "Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the [Junior Representative] pursuant to this Agreement are expressly subject and subordinate to the liens and security interests granted in favor of the Senior Secured Parties (as defined in the Intercreditor Agreement referred to below), including liens and security interests granted to JPMorgan Chase Bank, N.A., as collateral agent, pursuant to or in connection with the Credit Agreement, dated as of March 1, 2017, among the Borrower, the lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent and the other parties thereto, as further amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time and (ii) the exercise of any right or remedy by the [Junior Representative] hereunder is subject to the limitations and provisions of the Intercreditor Agreement dated as of March 1, 2017 (as amended, restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among JPMorgan Chase Bank, N.A., as First Lien Collateral Agent, Citibank, N.A., as Second Lien Collateral Agent, the Borrower and its subsidiaries and affiliated entities party thereto and each additional Junior Representative and Senior Representative (as such terms are defined in the Intercreditor Agreement) party thereto. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this [Agreement], the terms of the Intercreditor Agreement shall govern."

(d) In the event that each applicable Senior Representative and/or the Senior Secured Parties enter into any amendment, waiver or consent in respect of any of the Senior Collateral Documents for the purpose of adding to or deleting from, or waiving or consenting to any departures from any provisions of, any Senior Collateral Document or changing in any manner the rights of the Senior Representatives, the Senior Secured Parties, the Borrower or any other Grantor thereunder (including the release of any Liens in Senior Collateral) in a manner that is applicable to all Senior Facilities, then such amendment, waiver or consent shall apply automatically to any comparable provision of each comparable Junior Collateral Document without the consent of any Junior Representative or any Junior Debt Party and without any action by any Junior Representative, the Borrower or any other Grantor; provided, however, that (i) no such amendment, waiver or consent shall (A) remove assets subject to the Junior Liens or release any such Liens, except to the extent that such release is permitted or required by Section 5.01(a) and provided that there is a concurrent release of the corresponding Senior Liens or (B) amend, modify or otherwise affect the rights or duties of any Junior Representative in its role as Junior Representative without its prior written consent and (ii) written notice of such amendment, waiver or consent shall have been given to each Junior Representative within 10 Business Days after the effectiveness of such amendment, waiver or consent.

(e) The Borrower agrees to deliver to each Senior Representative and Junior Representative copies of (i) any amendments, supplements or other modifications to the Senior Debt Documents or the Junior Debt Documents and (ii) any new Senior Debt Documents or Junior Debt Documents promptly after effectiveness thereof.

Section 5.04 Rights as Unsecured Creditors. Notwithstanding anything to the contrary in this Agreement, the Junior Representatives and the Junior Debt Parties may exercise rights and remedies as unsecured creditors against the Borrower and any other Grantor in accordance with the terms of the Junior Debt Documents and applicable law so long as such rights and remedies do not violate the provisions of

this Agreement. Nothing in this Agreement shall prohibit the receipt by any Junior Representative or any Junior Debt Party of the required payments of principal, premium, interest, fees and other amounts due under the Junior Debt Documents so long as such receipt is not the direct or indirect result of the exercise in contravention of this Agreement by a Junior Representative or any Junior Debt Party of rights or remedies as a secured creditor in respect of Shared Collateral or otherwise required to be paid over to the Designated Senior Representative for the benefit of the Senior Secured Parties pursuant to Section 4.02. In the event any Junior Representative or any Junior Debt Party becomes a judgment lien creditor in respect of Shared Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of Junior Debt Obligations, such judgment lien shall be subordinated to the Liens securing Senior Obligations on the same basis as the other Liens securing the Junior Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement. Nothing in this Agreement shall impair or otherwise adversely affect any rights or remedies the Senior Representatives or the Senior Secured Parties may have with respect to the Senior Collateral.

Section 5.05 Gratuitous Bailee for Perfection.

(a) Each Senior Representative acknowledges and agrees that if it shall at any time hold a Lien securing any Senior Obligations on any Shared Collateral that can be perfected by the possession or control of such Shared Collateral or of any account in which such Shared Collateral is held, and if such Shared Collateral or any such account is in fact in the possession or under the control of such Senior Representative, or of agents or bailees of such Person (such Shared Collateral being referred to herein as the "Pledged or Controlled Collateral"), or if it shall any time obtain any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, the applicable Senior Representative shall also hold such Pledged or Controlled Collateral, or take such actions with respect to such landlord waiver, bailee's letter or similar agreement or arrangement, as sub-agent or gratuitous bailee for the relevant Junior Representatives, in each case solely for the purpose of perfecting the Liens granted under the relevant Junior Collateral Documents and subject to the terms and conditions of this Section 5.05.

(b) In the event that any Senior Representative (or its agents or bailees) has Lien filings, recordings or registrations against Intellectual Property that is part of the Shared Collateral that are necessary or advisable for the perfection or protection of Liens in such Shared Collateral, such Senior Representative agrees to hold such Liens, filings, recordings or registrations as sub-agent and gratuitous bailee for the relevant Junior Representatives and any assignee thereof, solely for the purpose of perfecting or protecting the security interest granted in such Liens pursuant to the relevant Junior Collateral Documents, subject to the terms and conditions of this Section 5.05.

(c) Except as otherwise specifically provided herein, until the Discharge of Senior Obligations has occurred, the Senior Representatives and the Senior Secured Parties shall be entitled to deal with the Pledged or Controlled Collateral in accordance with the terms of the Senior Debt Documents as if the Liens under the Junior Collateral Documents did not exist. The rights of the Junior Representatives and the Junior Debt Parties with respect to the Pledged or Controlled Collateral shall at all times be subject to the terms of this Agreement.

(d) The Senior Representatives and the Senior Secured Parties shall have no obligation whatsoever to the Junior Representatives or any Junior Debt Party to assure that any of the Pledged or Controlled Collateral is genuine or owned by the Grantors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Shared Collateral, except as expressly set forth in this Section 5.05. The duties or responsibilities of the Senior Representatives under this Section 5.05 shall be limited solely to holding or controlling the Shared Collateral and the related Liens referred to in

paragraphs (a) and (b) of this Section 5.05 as sub-agent and gratuitous bailee for the relevant Junior Representative for purposes of perfecting the Lien held by such Junior Representative.

(e) The Senior Representatives shall not have by reason of the Junior Collateral Documents or this Agreement, or any other document, a fiduciary relationship in respect of any Junior Representative or any Junior Debt Party, and each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby waives and releases the Senior Representatives from all claims and liabilities arising pursuant to the Senior Representatives' roles under this Section 5.05 as sub-agents and gratuitous bailees with respect to the Shared Collateral.

(f) Upon the Discharge of Senior Obligations, each applicable Senior Representative shall, at the Grantors' sole cost and expense,

(i) either

(A) deliver to the Designated Junior Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all proceeds thereof, held or controlled by such Senior Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, or

(B) direct and deliver such Shared Collateral as a court of competent jurisdiction may otherwise direct,

(ii) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier, and

(iii) notify any governmental authority involved in any condemnation or similar proceeding involving any Grantor that the Designated Junior Representative is entitled to approve any awards granted in such proceeding.

The Borrower and the other Grantors shall take such further action as is required to effectuate the transfer contemplated hereby and shall indemnify each Senior Representative for loss or damage suffered by such Senior Representative as a result of such transfer, except for loss or damage suffered by any such Person as a result of its own willful misconduct, gross negligence or bad faith. The Senior Representatives have no obligations to follow instructions from any Junior Representative or any other Junior Debt Party in contravention of this Agreement.

(g) None of the Senior Representatives nor any of the other Senior Secured Parties shall be required to marshal any present or future collateral security for any obligations of the Borrower or any Subsidiary to any Senior Representative or any Senior Secured Party under the Senior Debt Documents or any assurance of payment in respect thereof, or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

Section 5.06 When Discharge of Senior Obligations Deemed To Not Have Occurred. If, at any time substantially concurrently with or after the occurrence of the Discharge of Senior Obligations,

the Borrower or any Subsidiary consummates any Refinancing of any Senior Obligations, then such Discharge of Senior Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation as a result of the occurrence of such first Discharge of Senior Obligations) and the applicable agreement governing such Senior Obligations shall automatically be treated as a Senior Debt Document for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Shared Collateral set forth herein and the agent, representative or trustee for the holders of such Senior Obligations shall be the Senior Representative for all purposes of this Agreement. Upon receipt of notice of such incurrence (including the identity of the new Senior Representative), each Junior Representative (including the Designated Junior Representative) shall promptly (a) enter into such documents and agreements, including amendments or supplements to this Agreement, as the Borrower or such new Senior Representative shall reasonably request in writing in order to provide the new Senior Representative the rights of a Senior Representative contemplated hereby, (b) deliver to such Senior Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all proceeds thereof, held or controlled by such Junior Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, (c) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier and (d) notify any governmental authority involved in any condemnation or similar proceeding involving a Grantor that the new Senior Representative is entitled to approve any awards granted in such proceeding.

Section 5.07 Purchase Right. Without prejudice to the enforcement of the Senior Secured Parties remedies, the Senior Secured Parties agree that following (a) the acceleration of the Senior Obligations in accordance with the terms of the First Lien Credit Agreement or (b) the commencement of an Insolvency or Liquidation Proceeding (each, a "Purchase Event"), within thirty (30) days of the Purchase Event, one or more of the Junior Debt Parties may request, and the Senior Secured Parties hereby offer the Junior Debt Parties the option, to purchase all, but not less than all, of the aggregate amount of outstanding Senior Obligations and any loans provided by the Senior Secured Parties in connection with a DIP Financing outstanding at the time of purchase at par, plus any premium that would be applicable upon prepayment of the Senior Obligations and such DIP Financing and including all accrued and unpaid interest and fees as of the date of closing of such purchase, in accordance with the relevant Senior Debt Documents, without warranty or representation or recourse (except for customary representations and warranties required to be made by assigning lenders pursuant to any assignment agreement required under the First Lien Credit Agreement or other Senior Debt Document). In connection with such purchase, all issued and undrawn letters of credit constituting Senior Obligations shall be cancelled, replaced or cash collateralized in an amount not less than 103% of the face amount thereof by the purchasing Junior Debt Parties, or the purchasing Junior Debt Parties shall have provided other similar credit support satisfactory to each relevant issuer; provided that at such time as all such letters of credit have been cancelled, expired or been fully drawn, as the case may be, and after all applications described above have been made, any excess cash collateral deposited as described above shall be returned to the respective purchasers. If such right is exercised, the parties shall endeavor to close promptly thereafter but in any event within ten (10) Business Days of the request. If one or more of the Junior Debt Parties exercise such purchase right, it shall be exercised pursuant to documentation mutually acceptable to each of the Senior Representative and the Junior Representative. If none of the Junior Debt Parties exercise such right within the time periods set forth above, the Senior Secured Parties shall have no further obligations pursuant to this Section 5.07 for such Purchase Event and may take any further actions in their sole discretion in accordance with the Senior Debt Documents and this Agreement. The Borrower and each Senior Representative hereby consents to any assignment pursuant to this Section

5.07 to the extent it has a consent or similar approval right under the assignment provisions of the relevant Senior Debt Documents.

ARTICLE VI
INSOLVENCY OR LIQUIDATION PROCEEDINGS.

Section 6.01 Financing Issues. Until the Discharge of Senior Obligations has occurred, if the Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and any Senior Representative or any class of Senior Secured Parties shall desire to consent (or not object) to the sale, use or lease of cash or other collateral or to consent (or not object) to the Borrower's or any other Grantor's obtaining financing under Section 363 or Section 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law ("DIP Financing"), then each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that it will raise no objection to and will not otherwise contest:

(a) such sale, use or lease of such cash or other collateral, unless a Senior Representative or any class of Senior Secured Parties shall oppose or object to such use of cash collateral (in which case, no Junior Representative nor any other Junior Debt Party shall seek any relief in connection therewith that is inconsistent with the relief being sought by the Senior Secured Parties);

(b) such DIP Financing, unless a Senior Representative or any class of Senior Secured Parties shall oppose or object to such DIP Financing and, except to the extent permitted by the proviso in clause (ii) of Section 3.01(a) and Section 6.03, will not request adequate protection or any other relief in connection therewith and, to the extent the Liens securing any Senior Obligations are subordinated or *pari passu* with such DIP Financing, will subordinate (and will be deemed hereunder to have subordinated) its Liens in the Shared Collateral to (i) such DIP Financing (and all obligations relating thereto) on the same basis as the Liens securing the Junior Debt Obligations are so subordinated to Liens securing Senior Obligations under this Agreement, (ii) any adequate protection Liens provided to the Senior Secured Parties, and (iii) to any "carve-out" for professional and United States Trustee fees agreed to by the Senior Representatives;

(c) any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of Senior Obligations made by any Senior Representative or any other Senior Secured Party;

(d) any exercise by any Senior Secured Party of the right to credit bid Senior Obligations at any sale in foreclosure of Senior Collateral under Section 363(k) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law;

(e) any other request for judicial relief made in any court by any Senior Secured Party relating to the lawful enforcement of any Lien on Senior Collateral; or

(f) any order relating to a sale or other disposition of assets of any Grantor to which any Senior Representative has consented or not objected that provides, to the extent such sale or other disposition is to be free and clear of Liens, that the Liens securing the Senior Obligations and the Junior Debt Obligations will attach to the proceeds of the sale on the same basis of priority as the Liens on the Shared Collateral securing the Senior Obligations rank to the Liens on the Shared Collateral securing the Junior Debt Obligations pursuant to this Agreement.

Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that notice received two Business Days prior to the entry of an order approving such usage of cash or other collateral or approving such financing shall be adequate notice.

Section 6.02 Relief from the Automatic Stay. Until the Discharge of Senior Obligations has occurred, each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that none of them shall seek relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding or take any action in derogation thereof, in each case in respect of any Shared Collateral, without the prior written consent of the Designated Senior Representative.

Section 6.03 Adequate Protection. Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, agrees that none of them shall:

(a) object, contest or support any other Person objecting to or contesting (i) any request by any Senior Representative or any Senior Secured Parties for adequate protection, (ii) any objection by any Senior Representative or any Senior Secured Parties to any motion, relief, action or proceeding based on any Senior Representative's or Senior Secured Party's claiming a lack of adequate protection or (iii) the payment of interest, fees, expenses or other amounts of any Senior Representative or any other Senior Secured Party under Section 506(b) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law

(b) assert or support any claim for costs or expenses of preserving or disposing of any Collateral under Section 506(c) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law.

Notwithstanding anything contained in this Section 6.03 or in Section 6.01, in any Insolvency or Liquidation Proceeding:

(A) if the Senior Secured Parties (or any subset thereof) are granted adequate protection in the form of additional collateral or superpriority claims in connection with any DIP Financing or use of cash collateral under Section 363 or 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law, then each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, may seek or request adequate protection in the form of a replacement Lien or superpriority claim on such additional collateral, which:

(1) Lien is subordinated to the Liens securing all Senior Obligations and such DIP Financing (and all obligations relating thereto) on the same basis as the other Liens securing the Junior Debt Obligations are so subordinated to the Liens securing Senior Obligations under this Agreement and

(2) superpriority claim is subordinated to all superpriority claims of the Senior Secured Parties on the same basis as the other claims of the Junior Debt Parties are so subordinated to the claims of the Senior Secured Parties under this Agreement,

(B) in the event any Junior Representatives, for themselves and on behalf of the Junior Debt Parties under their Junior Debt Facilities, seek or request adequate protection and such adequate protection is granted (in each instance, to the extent such grant is otherwise permissible under the terms and conditions of this Agreement) in the form of additional or replacement collateral, then such Junior Representatives, for themselves and on behalf of each Junior Debt Party under their Junior Debt Facilities, agree that each Senior Representative shall

also be granted a senior Lien on such additional or replacement collateral as security for the Senior Obligations and any such DIP Financing and that any Lien on such additional or replacement collateral securing the Junior Debt Obligations shall be subordinated to the Liens on such collateral securing the Senior Obligations and any such DIP Financing (and all obligations relating thereto) and any other Liens granted to the Senior Secured Parties as adequate protection on the same basis as the other Liens securing the Junior Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement (and, to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Junior Debt Party pursuant to or as a result of any Lien on such additional or replacement collateral so granted to the Junior Debt Parties shall be subject to Section 4.02), and

(C) in the event any Junior Representatives, for themselves and on behalf of the Junior Debt Parties under their Junior Debt Facilities, seek or request adequate protection and such adequate protection is granted (in each instance, to the extent such grant is otherwise permissible under the terms and conditions of this Agreement) in the form of a superpriority claim, then such Junior Representatives, for themselves and on behalf of each Junior Debt Party under their Junior Debt Facilities, agree that each Senior Representative shall also be granted adequate protection in the form of a superpriority claim, which superpriority claim shall be senior to the superpriority claim of the Junior Debt Parties (and, to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Junior Debt Party pursuant to or as a result of any such superpriority claim so granted to the Junior Debt Parties shall be subject to Section 4.02).

Section 6.04 Preference Issues. If any Senior Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to disgorge, turn over or otherwise pay any amount to the estate of the Borrower or any other Grantor (or any trustee, receiver or similar Person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a "Recovery"), whether received as proceeds of security, enforcement of any right of setoff or otherwise, then the Senior Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding as if such payment had not occurred and the Senior Secured Parties shall be entitled to the benefits of this Agreement until a Discharge of Senior Obligations with respect to all such recovered amounts. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto. Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby agrees that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this Agreement, whether by preference or otherwise, it being understood and agreed that the benefit of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Agreement.

Section 6.05 Separate Grants of Security and Separate Classifications. Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, acknowledges and agrees that (a) the grants of Liens pursuant to the Senior Collateral Documents and the Junior Collateral Documents constitute separate and distinct grants of Liens and (b) because of, among other things, their differing rights in the Shared Collateral, the Junior Debt Obligations are fundamentally different from the Senior Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency or Liquidation Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that any claims of the Senior Secured Parties and the Junior Debt Parties in respect of the Shared Collateral constitute a single class of claims (rather than separate classes of senior and junior secured claims), then each Junior Representative,

for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby acknowledges and agrees that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Shared Collateral, with the effect being that, to the extent that the aggregate value of the Shared Collateral is sufficient (for this purpose ignoring all claims held by the Junior Debt Parties), the Senior Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of post-petition interest (whether or not allowed or allowable) before any distribution is made in respect of the Junior Debt Obligations, and each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, hereby acknowledges and agrees to turn over to the Designated Senior Representative amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Debt Parties.

Section 6.06 No Waivers of Rights of Senior Secured Parties. Nothing contained herein shall, except as expressly provided herein, prohibit or in any way limit any Senior Representative or any other Senior Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by any Junior Debt Party, including the seeking by any Junior Debt Party of adequate protection or the assertion by any Junior Debt Party of any of its rights and remedies under the Junior Debt Documents or otherwise.

Section 6.07 Application. This Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under Section 510(a) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law, shall be effective before, during and after the commencement of any Insolvency or Liquidation Proceeding. The relative rights as to the Shared Collateral and proceeds thereof shall continue after the commencement of any Insolvency or Liquidation Proceeding on the same basis as prior to the date of the petition therefor, subject to any court order approving the financing of, or use of cash collateral by, any Grantor. All references herein to any Grantor shall include such Grantor as a debtor-in-possession and any receiver or trustee for such Grantor.

Section 6.08 Other Matters. To the extent that any Junior Representative or any Junior Debt Party has or acquires rights under Section 363 or Section 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law with respect to any of the Shared Collateral, such Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, or such Junior Debt Party agrees not to assert any such rights without the prior written consent of each Senior Representative, provided that if requested by any Senior Representative, such Junior Representative shall timely exercise such rights in the manner requested by the Senior Representatives (acting unanimously), including any rights to payments in respect of such rights.

Section 6.09 506(c) Claims. Until the Discharge of Senior Obligations has occurred, each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, agrees that it will not assert or enforce any claim under Section 506(c) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law senior to or on a parity with the Liens securing the Senior Obligations for costs or expenses of preserving or disposing of any Shared Collateral.

Section 6.10 Reorganization Securities.

(a) If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed, pursuant to a plan of reorganization or similar dispositive restructuring plan, on account of both the Senior Obligations and the Junior Debt Obligations, then, to the extent the debt obligations distributed on account of the Senior Obligations and on account of the Junior Debt Obligations are secured by Liens

upon the same assets or property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

(b) No Junior Debt Party (whether in the capacity of a secured creditor or an unsecured creditor) shall propose, vote in favor of, or otherwise directly or indirectly support any plan of reorganization that is inconsistent with the priorities or other provisions of this Agreement, other than with the prior written consent of the Designated Senior Representative or to the extent any such plan is proposed or supported by the number of Senior Secured Debt Parties required under Section 1126(d) of the Bankruptcy Code.

Section 6.11 Section 1111(b) of the Bankruptcy Code. Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, shall not object to, oppose, support any objection, or take any other action to impede, the right of any Senior Secured Party to make an election under Section 1111(b)(2) of the Bankruptcy Code. Each Junior Representative, for itself and on behalf of each Junior Debt Party under its Junior Debt Facility, waives any claim it may hereafter have against any senior claimholder arising out of the election by any Senior Secured Party of the application of Section 1111(b)(2) of the Bankruptcy Code.

ARTICLE VII
RELIANCE; ETC.

Section 7.01 Reliance. All loans and other extensions of credit made or deemed made on and after the date hereof by the Senior Secured Parties to the Borrower or any Subsidiary shall be deemed to have been given and made in reliance upon this Agreement. Each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, acknowledges that it and such Junior Debt Parties have, independently and without reliance on any Senior Representative or other Senior Secured Party, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into the Junior Debt Documents to which they are party or by which they are bound, this Agreement and the transactions contemplated hereby and thereby, and they will continue to make their own credit decisions in taking or not taking any action under the Junior Debt Documents or this Agreement.

Section 7.02 No Warranties or Liability. Each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, acknowledges and agrees that neither any Senior Representative nor any other Senior Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Senior Debt Documents, the ownership of any Shared Collateral or the perfection or priority of any Liens thereon. The Senior Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Debt Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that the Junior Representatives and the Junior Debt Parties have in the Shared Collateral or otherwise, except as otherwise provided in this Agreement. Neither any Senior Representative nor any other Senior Secured Party shall have any duty to any Junior Representative or Junior Debt Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreement with the Borrower or any Subsidiary (including the Junior Debt Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, the Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Debt Parties have not otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the

enforceability, validity, value or collectability of any of the Senior Obligations, the Junior Debt Obligations or any guarantee or security which may have been granted to any of them in connection therewith, (b) any Grantor's title to or right to transfer any of the Shared Collateral or (c) any other matter except as expressly set forth in this Agreement.

Section 7.03 Obligations Unconditional. All rights, interests, agreements and obligations of the Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Debt Parties hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Senior Debt Document or any Junior Debt Document;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Senior Obligations or Junior Debt Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of the First Lien Credit Agreement or any other Senior Debt Document or of the terms of the Second Lien Credit Agreement or any other Junior Debt Document;

(c) any exchange of any security interest in any Shared Collateral or any other collateral or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Senior Obligations or Junior Debt Obligations or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Borrower or any other Grantor; or

(e) any other circumstances that otherwise might constitute a defense available to (i) the Borrower or any other Grantor in respect of the Senior Obligations (other than the Discharge of Senior Obligations subject to Sections 5.06 and 6.04) or (ii) any Junior Representative or Junior Debt Party in respect of this Agreement.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Conflicts. Subject to Section 8.22, in the event of any conflict between the provisions of this Agreement and the provisions of any Senior Debt Document or any Junior Debt Document, the provisions of this Agreement shall govern. Notwithstanding the foregoing, the relative rights and obligations of the Senior Secured Collateral Agent, the Senior Representatives and the Senior Secured Parties (as amongst themselves) with respect to any Senior Collateral shall be governed by the terms of the Senior Debt Documents and, upon execution thereof, the First Lien Intercreditor Agreement, and in the event of any conflict between any Senior Debt Document or the First Lien Intercreditor Agreement and this Agreement as to such relative rights and obligations, the provisions of such Senior Debt Document or the First Lien Intercreditor Agreement shall control.

Section 8.02 Continuing Nature of this Agreement; Severability. Subject to Section 6.04, this Agreement shall continue to be effective until the Discharge of Senior Obligations shall have occurred. This is a continuing agreement of Lien subordination, and the Senior Secured Parties may continue, at any time and without notice to the Junior Representatives or any Junior Debt Party, to extend credit and other financial accommodations and lend monies to or for the benefit of the Borrower or any Subsidiary constituting Senior Obligations in reliance hereon. The terms of this Agreement shall survive and continue in full force and effect in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining

provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 8.03 Amendments; Waivers.

(a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) This Agreement may be amended in writing signed by each Representative (in each case, acting in accordance with the documents governing the applicable Debt Facility); provided that any such amendment, supplement or waiver which by the terms of this Agreement requires the Borrower's consent or which increases the obligations or reduces the rights of, or otherwise materially adversely affects, the Borrower or any Grantor, shall require the consent of the Borrower. Any such amendment, supplement or waiver shall be in writing and shall be binding upon the Senior Secured Parties and the Junior Debt Parties and their respective successors and assigns.

(c) Notwithstanding the foregoing, without the consent of any Secured Party (and with respect to any amendment or modification which by the terms of this Agreement requires the Borrower's consent or which increases the obligations or reduces the rights of the Borrower or any other Grantor, with the consent of the Borrower), any Representative may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 8.09 of this Agreement and upon such execution and delivery, such Representative and the Secured Parties and Senior Obligations or Junior Debt Obligations of the Debt Facility for which such Representative is acting shall be subject to the terms hereof.

Section 8.04 Information Concerning Financial Condition of the Borrower and the Subsidiaries. The Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Secured Parties shall each be responsible for keeping themselves informed of (a) the financial condition of the Borrower and the Subsidiaries and all endorsers or guarantors of the Senior Obligations or the Junior Debt Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Senior Obligations or the Junior Debt Obligations. The Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Secured Parties shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any Senior Representative, any Senior Secured Party, any Junior Representative or any Junior Debt Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it shall be under no obligation to (i) make, and the Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Debt Parties shall not make or be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (ii) provide any additional information or to provide any such information on any subsequent occasion, (iii) undertake any investigation or (iv) disclose any information that, pursuant to accepted or reasonable

commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

Section 8.05 Subrogation. Each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of Senior Obligations has occurred.

Section 8.06 Application of Payments. Except as otherwise provided herein, all payments received by the Senior Secured Parties may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Obligations as the Senior Secured Parties, in their sole discretion, deem appropriate, consistent with the terms of the Senior Debt Documents. Except as otherwise provided herein, each Junior Representative, on behalf of itself and each Junior Debt Party under its Junior Debt Facility, assents to any such extension or postponement of the time of payment of the Senior Obligations or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any security that may at any time secure any part of the Senior Obligations and to the addition or release of any other Person primarily or secondarily liable therefor.

Section 8.07 Additional Grantors. The Borrower agrees that, if any Subsidiary shall become a Grantor after the date hereof, it will promptly cause such Subsidiary to become party hereto by executing and delivering an instrument in the form of Annex I. Upon such execution and delivery, such Subsidiary will become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Designated Junior Representative and the Designated Senior Representative. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 8.08 Dealings with Grantors. Upon any application or demand by the Borrower or any Grantor to any Representative to take or permit any action under any of the provisions of this Agreement or under any Collateral Document (if such action is subject to the provisions hereof), at the request of such Representative, the Borrower or such Grantor, as appropriate, shall furnish to such Representative a certificate of an Authorized Officer (an "Officer's Certificate") stating that all conditions precedent, if any, provided for in this Agreement or such Collateral Document, as the case may be, relating to the proposed action have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Agreement or any Collateral Document relating to such particular application or demand, no additional certificate or opinion need be furnished.

Section 8.09 Additional Debt Facilities. To the extent, but only to the extent, permitted by the provisions of the then extant Senior Debt Documents and Junior Debt Documents, and subject to Section 5.03, the Borrower may incur or issue and sell one or more series or classes of Additional Junior Debt and one or more series or classes of Additional Senior Debt. Any such additional class or series of Junior Debt (the "Junior Class Debt") may be secured by a second (or more junior) priority, subordinated Lien on Shared Collateral, in each case under and pursuant to the relevant Junior Collateral Documents for such Junior Class Debt, if and subject to the condition that the Junior Representative for any such Junior Class Debt, acting on behalf of the holders of such Junior Class Debt (such Representative and holders in respect of any Junior Class Debt being referred to as the "Junior Class Debt Parties"), becomes a party to this Agreement by satisfying conditions (a) through (c), as applicable, of the immediately succeeding paragraph. Any such additional class or series of Senior Facilities (the "Senior Class Debt"; and the Senior Class Debt and Junior Class Debt, collectively, the "Class Debt") may be secured by a senior Lien on Shared Collateral, in each case under and pursuant to the relevant Senior Collateral Documents, if and subject to the condition that the Senior Representative for any such Senior Class Debt, acting on behalf of

the holders of such Senior Class Debt (such Representative and holders in respect of any such Senior Class Debt being referred to as the "Senior Class Debt Parties; and the Senior Class Debt Parties and Junior Class Debt Parties, collectively, the "Class Debt Parties"), becomes a party to this Agreement by satisfying the conditions set forth in clauses (a) through (c), as applicable, of the immediately succeeding paragraph. In order for a Representative to become a party to this Agreement:

(a) such Representative shall have executed and delivered a Joinder Agreement substantially in the form of Annex II (if such Representative is a Junior Representative) or Annex III (if such Representative is a Senior Representative) (with such changes as may be reasonably approved by the Designated Senior Representative and such Representative) pursuant to which it becomes a Representative hereunder, and the Class Debt in respect of which such Representative is the Representative constitutes Additional Senior Debt Obligations or Additional Junior Debt Obligations, as applicable, and the related Class Debt Parties become subject hereto and bound hereby as Additional Senior Debt Parties or Additional Junior Debt Parties, as applicable;

(b) the Borrower (i) shall have delivered to the Designated Senior Representative an Officer's Certificate identifying the obligations to be designated as Additional Senior Debt Obligations or Additional Junior Debt Obligations, as applicable, and the initial aggregate principal amount or face amount thereof and certifying that such obligations are permitted to be incurred and secured (A) in the case of Additional Senior Debt Obligations, on a senior basis under each of the Senior Debt Documents and (B) in the case of Additional Junior Debt Obligations, on a junior basis under each of the Junior Debt Documents and (ii) if requested, shall have delivered true and complete copies of each of the Junior Debt Documents or Senior Debt Documents, as applicable, relating to such Class Debt, certified as being true and correct by an authorized officer of the Borrower; and

(c) the Junior Debt Documents or Senior Debt Documents, as applicable, relating to such Class Debt shall provide that each Class Debt Party with respect to such Class Debt will be subject to and bound by the provisions of this Agreement in its capacity as a holder of such Class Debt.

Section 8.10 Refinancings. Subject to Section 5.03, the Senior Debt Obligations and the Junior Debt may be refinanced or replaced, in whole or in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the refinancing transaction under any Senior Debt Document or any Junior Debt Document) of any Senior Representative or any Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof. The Second Lien Representative hereby agrees that at the request of the Borrower in connection with refinancing or replacement of Senior Obligations ("Replacement Senior Obligations") it will enter into an agreement in form and substance reasonably acceptable to the Junior Representative with the agent for the Replacement Senior Obligations containing terms and conditions substantially similar to the terms and conditions of this Agreement.

Section 8.11 Consent to Jurisdiction; Waivers. Each Representative, on behalf of itself and the Secured Parties of the Debt Facility pursuant to which it is acting, irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the Collateral Documents, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the State of New York or the United States of America located in the Borough of Manhattan, City of New York, and appellate courts from any thereof;

(b) consents and agrees that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or

proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person (or its Representative) at the address referred to in Section 8.12;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 8.10 any special, exemplary, punitive or consequential damages.

Section 8.12 Notices. All notices, requests, demands and other communications provided for or permitted hereunder shall be in writing and shall be sent:

(a) if to the Borrower or any Grantor, to the Borrower, at its address at:

Gavilan Resources, LLC
c/o Blackstone Management Partners L.L.C.
345 Park Avenue, 31st Floor
New York, New York 10154
Attn: Angelo Acconcia
Facsimile: (212) 201-2874
E-mail Address: aaconcia@blackstone.com

(b) if to the First Lien Collateral Agent, to it at:

JPMorgan Chase Bank, N.A.
383 Madison Avenue, 27th Floor
New York, New York 10179
Attention: Maxim Tcherevik
Telephone: (212) 270-6091
E-mail: maxim.tcherevik@jpmorgan.com

(c) if to the Second Lien Collateral Agent to it at:

Citibank N.A.
Attn: Global Loans/Agency
1615 Brett Road, Ops III
New Castle, DE 19720
Email: glagentofficeops@citi.com
Telephone: (302) 894-6010
Fax: 646-274-5080

(d) if to any other Representative, to it at the address specified by it in the Joinder Agreement delivered by it pursuant to Section 8.09.

Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and, may be personally served, telecopied, electronically mailed

or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or electronic mail or upon receipt via U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth above or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

Section 8.13 Further Assurances. Each Senior Representative, on behalf of itself and each Senior Secured Party under the Senior Debt Facility for which it is acting, each Second Party Representative, on behalf of itself, and each Junior Debt Party under its Junior Debt Facility, agrees that it will take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the other parties hereto may reasonably request to effectuate the terms of, and the Lien priorities contemplated by, this Agreement.

Section 8.14 GOVERNING LAW; WAIVER OF JURY TRIAL.

(a) **THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

(b) **EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.**

Section 8.15 Binding on Successors and Assigns. This Agreement shall be binding upon the Senior Representatives, the Senior Secured Parties, the Junior Representatives, the Junior Debt Parties, the Borrower, the other Grantors party hereto and their respective successors and assigns.

Section 8.16 Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Agreement.

Section 8.17 Counterparts. This Agreement may be executed in one or more counterparts, including by means of facsimile or other electronic method, each of which shall be an original and all of which shall together constitute one and the same document. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 8.18 Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The First Lien Collateral Agent represents and warrants that this Agreement is binding upon the First Lien Credit Agreement Secured Parties. The Second Lien Collateral Agent represents and warrants that this Agreement is binding upon the Second Lien Credit Agreement Secured Parties.

Section 8.19 No Third Party Beneficiaries; Successors and Assigns. The lien priorities set forth in this Agreement and the rights and benefits hereunder in respect of such lien priorities shall inure solely to the benefit of the Senior Representatives, the Senior Secured Parties, the Junior Representatives and the Junior Debt Parties, and their respective permitted successors and assigns, and no other Person (including the Grantors, or any trustee, receiver, debtor in possession or bankruptcy estate in a bankruptcy or like proceeding) shall have or be entitled to assert such rights. Nothing in this Agreement is intended to or shall impair the obligations of the Borrower or any other Grantor, which are absolute and

unconditional, to pay the Senior Obligations and the Junior Debt Obligations as and when the same shall become due and payable in accordance with their terms.

Section 8.20 Effectiveness. This Agreement shall become effective when executed and delivered by the parties hereto.

Section 8.21 Collateral Agent and Representative. It is understood and agreed that (a) the First Lien Collateral Agent is entering into this Agreement in its capacity as administrative agent and collateral agent under the First Lien Credit Agreement and the provisions of Section 12 of the First Lien Credit Agreement applicable to the Agents (as defined therein) thereunder shall also apply to the First Lien Collateral Agent hereunder and (b) the Second Lien Collateral Agent is entering into this Agreement in its capacity as administrative agent and collateral agent under the Second Lien Credit Agreement and the provisions of Section 12 of the Second Lien Credit Agreement applicable to the Agents (as defined therein) thereunder shall also apply to the Second Lien Collateral Agent hereunder.

Section 8.22 Relative Rights. Notwithstanding anything in this Agreement to the contrary (except to the extent contemplated by Section 5.01(a), 5.01(d) or 5.03(d)), nothing in this Agreement is intended to or will (a) amend, waive or otherwise modify the provisions of the First Lien Credit Agreement, any other Senior Debt Document, the Second Lien Credit Agreement or any other Junior Debt Documents, (b) change the relative priorities of the Senior Obligations or the Liens granted under the Senior Collateral Documents on the Shared Collateral (or any other assets) as among the Senior Secured Parties, (c) otherwise change the relative rights of the Senior Secured Parties in respect of the Shared Collateral as among such Senior Secured Parties or (d) obligate the Borrower or any Grantor to take any action, or fail to take any action, that would otherwise constitute a breach of, or default under, the First Lien Credit Agreement, any other Senior Debt Document, the Second Lien Credit Agreement or any other Junior Debt Document.

Section 8.23 Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

JPMORGAN CHASE BANK, N.A., as First Lien Collateral Agent

By: 
Name: Michael A. Kamauf
Title: Authorized Officer

CITIBANK, N.A., as Second Lien Collateral Agent

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

JPMORGAN CHASE BANK, N.A., as First Lien Collateral Agent

By: _____
Name:
Title:

CITIBANK, N.A., as Second Lien Collateral Agent

By: _____
Name: Joseph Ruffini
Title: Vice President

GAVILAN RESOURCES, LLC

By: _____
Name: Angelo Acconcia
Title: President

ANNEX I

[FORM OF] SUPPLEMENT NO. [_____] dated as of [_____], to the INTERCREDITOR AGREEMENT dated as of March 1, 2017 (the "Intercreditor Agreement"), among Gavilan Resources, LLC, a Delaware limited liability company (the "Borrower"), certain subsidiaries and affiliates of the Borrower (including the Borrower, each a "Grantor"), JPMorgan Chase Bank, N.A., as First Lien Collateral Agent under the First Lien Credit Agreement, Citibank, N.A., as Second Lien Collateral Agent under the Second Lien Credit Agreement, and the additional Representatives from time to time party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. The Grantors have entered into the Intercreditor Agreement. Pursuant to the First Lien Credit Agreement, the Second Lien Credit Agreement, certain Additional Senior Debt Documents, and certain Additional Junior Debt Documents, certain newly acquired or organized Subsidiaries of the Borrower are required to enter into the Intercreditor Agreement. Section 8.07 of the Intercreditor Agreement provides that such Subsidiaries may become party to the Intercreditor Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the "New Grantor") is executing this Supplement in accordance with the requirements of the First Lien Credit Agreement, the Second Lien Credit Agreement, the Additional Junior Debt Documents and Additional Senior Debt Documents.

Accordingly, the Designated Senior Representative and the New Subsidiary Grantor agree as follows:

SECTION 1. In accordance with Section 8.07 of the Intercreditor Agreement, the New Grantor by its signature below becomes a Grantor under the Intercreditor Agreement with the same force and effect as if originally named therein as a Grantor, and the New Grantor hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Grantor thereunder. Each reference to a "Grantor" in the Intercreditor Agreement shall be deemed to include the New Grantor. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Grantor represents and warrants to the Designated Senior Representative and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Bankruptcy Laws and by general principles of equity.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Supplement that bears the signature of the New Grantor. Delivery of an executed signature page to this Supplement by facsimile transmission or other electronic method shall be as effective as delivery of a manually signed counterpart of this Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. **THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

SECTION 6. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 8.11 of the Intercreditor Agreement. All communications and notices hereunder to the New Grantor shall be given to it in care of the Borrower as specified in the Intercreditor Agreement.

SECTION 8. The Borrower agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative as required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Grantor, and the Designated Senior Representative have duly executed this Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY GRANTOR]

By: _____
Name: _____
Title: _____

Acknowledged by:

[JPMORGAN CHASE BANK, N.A.], as
Designated Senior Representative

By: _____
Name: _____
Title: _____

[JPMORGAN CHASE BANK, N.A.], as
Designated Junior Representative

By: _____
Name: _____
Title: _____

ANNEX II

[FORM OF] REPRESENTATIVE SUPPLEMENT NO. [___] dated as of [_____], 201[___] to the INTERCREDITOR AGREEMENT dated as of March 1, 2017 (the "Intercreditor Agreement"), among Gavilan Resources, LLC, a Delaware limited liability company (the "Borrower"), certain subsidiaries and affiliates of the Borrower (including the Borrower, each a "Grantor"), JPMorgan Chase Bank, N.A., as First Lien Collateral Agent under the First Lien Credit Agreement, Citibank, N.A., as Second Lien Collateral Agent under the Second Lien Credit Agreement, and the additional Representatives from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. As a condition to the ability of the Borrower to incur Junior Class Debt after the date of the Intercreditor Agreement and to secure such Junior Class Debt with the Junior Lien and to have such Junior Class Debt guaranteed by the Grantors, in each case under and pursuant to the Junior Collateral Documents relating thereto, the Junior Representative in respect of such Junior Class Debt is required to become a Representative under, and such Junior Class Debt and the Junior Class Debt Parties in respect thereof are required to become subject to and bound by, the Intercreditor Agreement. Section 8.09 of the Intercreditor Agreement provides that such Junior Representative may become a Representative under, and such Junior Class Debt and such Junior Class Debt Parties may become subject to and bound by, the Intercreditor Agreement as Additional Junior Debt Obligations and Additional Junior Debt Parties, respectively, pursuant to the execution and delivery by the Junior Representative of an instrument in the form of this Representative Supplement and the satisfaction of the other conditions set forth in Section 8.09 of the Intercreditor Agreement. The undersigned Junior Representative (the "New Representative") is executing this Supplement in accordance with the requirements of the Senior Debt Documents and the Junior Debt Documents.

Accordingly, the Designated Senior Representative and the New Representative agree as follows:

SECTION 1. In accordance with Section 8.09 of the Intercreditor Agreement, the New Representative by its signature below becomes a Representative under, and the related Junior Class Debt and Junior Class Debt Parties become subject to and bound by, the Intercreditor Agreement as Additional Junior Debt Obligations and Additional Junior Debt Parties, respectively, with the same force and effect as if the New Representative had originally been named therein as a Representative, and the New Representative, on behalf of itself and such Junior Class Debt Parties, hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Junior Representative and to the Junior Class Debt Parties that it represents as Junior Debt Parties. Each reference to a "Representative" or "Junior Representative" in the Intercreditor Agreement shall be deemed to include the New Representative. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Representative represents and warrants to the Designated Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Representative Supplement, in its capacity as [agent] [trustee], (ii) this Representative Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Junior Debt Documents relating to such Junior Class Debt provide that, upon the New Representative's entry into this Agreement, the Junior Class Debt Parties in respect of such Junior Class Debt will be subject to and bound by the provisions of the Intercreditor Agreement as Junior Debt Parties.

SECTION 3. This Representative Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Representative Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Representative Supplement that bears the signature of the New Representative. Delivery of an executed signature page to this Representative Supplement by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Representative Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. **THIS REPRESENTATIVE SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

SECTION 6. In case any one or more of the provisions contained in this Representative Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 8.11 of the Intercreditor Agreement. All communications and notices hereunder to the New Representative shall be given to it at the address set forth below its signature hereto.

SECTION 8. The Borrower agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Representative Supplement, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative as required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Representative and the Designated Senior Representative have duly executed this Representative Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW REPRESENTATIVE], as
[_____] for the holders of
[_____]

By: _____
Name: _____
Title: _____

Address for notices

_____
_____
Attention of:: _____
Telecopy: _____
Address for notices

[JPMORGAN CHASE BANK, N.A.], as
Designated Senior Representative

By: _____
Name: _____
Title: _____

Acknowledged by:

GAVILAN RESOURCES, LLC

By: _____
Name: _____
Title: _____

[SUBSIDIARY GRANTORS]

By: _____
Name: _____
Title: _____

Schedule I to the
Representative Supplement to the
Intercreditor Agreement

Grantors

[_____]

ANNEX III

[FORM OF] REPRESENTATIVE SUPPLEMENT NO. [___] dated as of [_____], 201[___] to the INTERCREDITOR AGREEMENT dated as of March 1, 2017 (the "Intercreditor Agreement"), among Gavilan Resources, LLC, a Delaware limited liability company (the "Borrower"), certain subsidiaries and affiliates of the Borrower (including the Borrower, each a "Grantor"), JPMorgan Chase Bank, N.A., as First Lien Collateral Agent under the First Lien Credit Agreement, Citibank, N.A., as Second Lien Collateral Agent under the Second Lien Credit Agreement, and the additional Representatives from time to time party thereto.

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. As a condition to the ability of the Borrower to incur Senior Class Debt after the date of the Intercreditor Agreement and to secure such Senior Class Debt with the Senior Lien and to have such Senior Class Debt guaranteed by the Grantors on a senior basis, in each case under and pursuant to the Senior Collateral Documents relating thereto, the Senior Representative in respect of such Senior Class Debt is required to become a Representative under, and such Senior Class Debt and the Senior Class Debt Parties in respect thereof are required to become subject to and bound by, the Intercreditor Agreement. Section 8.09 of the Intercreditor Agreement provides that such Senior Representative may become a Representative under, and such Senior Class Debt and such Senior Class Debt Parties may become subject to and bound by, the Intercreditor Agreement as Additional Senior Debt Obligations and Additional Senior Debt Parties, respectively, pursuant to the execution and delivery by the Senior Representative of an instrument in the form of this Representative Supplement and the satisfaction of the other conditions set forth in Section 8.09 of the Intercreditor Agreement. The undersigned Senior Representative (the "New Representative") is executing this Supplement in accordance with the requirements of the Senior Debt Documents and the Junior Debt Documents.

Accordingly, the Designated Senior Representative and the New Representative agree as follows:

SECTION 1. In accordance with Section 8.09 of the Intercreditor Agreement, the New Representative by its signature below becomes a Representative under, and the related Senior Class Debt and Senior Class Debt Parties become subject to and bound by, the Intercreditor Agreement as Additional Senior Debt Obligations and Additional Senior Debt Parties, respectively, with the same force and effect as if the New Representative had originally been named therein as a Representative, and the New Representative, on behalf of itself and such Senior Class Debt Parties, hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Senior Representative and to the Senior Class Debt Parties that it represents as Senior Debt Parties. Each reference to a "Representative" or "Senior Representative" in the Intercreditor Agreement shall be deemed to include the New Representative. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Representative represents and warrants to the Designated Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Representative Supplement, in its capacity as [agent] [trustee], (ii) this Representative Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Senior Debt Documents relating to such Senior Class Debt provide that, upon the New Representative's entry into this Agreement, the Senior Class Debt Parties in respect of such Senior Class Debt will be subject to and bound by the provisions of the Intercreditor Agreement as Senior Secured Parties.

SECTION 3. This Representative Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Representative Supplement shall become effective when the Designated Senior Representative shall have received a counterpart of this Representative Supplement that bears the signature of the New Representative. Delivery of an executed signature page to this Representative Supplement by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Representative Supplement.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. **THIS REPRESENTATIVE SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

SECTION 6. In case any one or more of the provisions contained in this Representative Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 8.11 of the Intercreditor Agreement. All communications and notices hereunder to the New Representative shall be given to it at the address set forth below its signature hereto.

SECTION 8. The Borrower agrees to reimburse the Designated Senior Representative for its reasonable out-of-pocket expenses in connection with this Representative Supplement, including the reasonable fees, other charges and disbursements of counsel for the Designated Senior Representative as required by the applicable Senior Debt Documents.

IN WITNESS WHEREOF, the New Representative and the Designated Senior Representative have duly executed this Representative Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW REPRESENTATIVE], as
[_____] for the holders of
[_____]

By: _____
Name: _____
Title: _____

Address for notices

_____
_____
Attention of:: _____
Telecopy: _____

[JPMORGAN CHASE BANK, N.A.], as
Designated Senior Representative

By: _____
Name: _____
Title: _____

Acknowledged by:

GAVILAN RESOURCES, LLC

By: _____
Name: _____
Title: _____

[SUBSIDIARY GRATNORS]

By: _____
Name: _____
Title: _____

Schedule I to the
Representative Supplement to the
Intercreditor Agreement

Grantors

[_____]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
GAVILAN RESOURCES, LLC,.	Case No. 20-32656 (DRJ)
Debtors.[1]	Jointly Administered
	Ref. Docket No. 99

AFFIDAVIT OF SERVICE

STATE OF CONNECTICUT)
) ss.:
COUNTY OF HARTFORD)

MARC ORFITELLI, being duly sworn, deposes and says:

1. I am employed as a Senior Case Manager by Epiq Corporate Restructuring, LLC, with their principal office located at 777 Third Avenue, New York, NY 10017. I am over the age of eighteen years and am not a party to the above-captioned action.

2. On June 4, 2020, I caused to be served the "Emergency Motion of Debtors for Entry of Orders (I)(A) Approving Bid Procedures for Sale of Debtors' Assets, (B) Scheduling Auction for and Hearing to Approve Sale of Debtors' Assets, (C) Approving Form and Manner of Notice of Sale, Auction, and Sale Hearing, (D) Approving Assumption and Assignment Procedures, and (E) Granting Related Relief; and (II)(A) Approving Sale of Debtors' Assets, (B) Authorizing Assumption And Assignment Of Executory Contracts and Unexpired Leases, And (C) Granting Related Relief, " dated June 4, 2020 [Docket No. 99], by causing true and correct copies to be:

    a. enclosed securely in separate postage pre-paid envelopes and delivered via overnight mail to those parties listed on the annexed Exhibit A, and

    b. enclosed securely in separate postage pre-paid envelopes and delivered via first class mail to those parties listed on the annexed Exhibit B, and

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Gavilan Resources, LLC (6688); Gavilan Resources Holdco, LLC (6425); Gavilan Resources Holdings, LLC (4496); and Gavilan Resources Management Services, LLC (3961). The Debtors' mailing address is 920 Memorial City Way, Suite 1400, Houston, Texas 77024.

c. delivered via electronic mail to those parties listed on the annexed Exhibit C.

1. All envelopes utilized in the service of the foregoing contained the following legend: "LEGAL DOCUMENTS ENCLOSED. PLEASE DIRECT TO THE ATTENTION OF ADDRESSEE, PRESIDENT OR LEGAL DEPARTMENT."

/s/ Marc Orfitelli
Marc Orfitelli

Sworn to before me this
5th day of June, 2020
/s/ Amy E. Lewis
Notary Public, State of Connecticut
Acct. No. 100624
Commission Expires: 8/31/2022

EXHIBIT A

Claim Name	Address Information
ENVIRONMENTAL SYSTEMS RESEARCH	INSTITUTE INC ATTN: JACK DANGERMOND 380 NEW YORK STREET REDLANDS CA 92373
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION PO BOX 7346 PHILADELPHIA PA 19101-7446
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION 2970 MARKET ST MAIL STOP 5 Q30 133 PHILADELPHIA PA 19104-5016
INTERNAL REVENUE SERVICE	324 25TH ST OGDEN UT 84201-0059

Total Creditor count 4

EXHIBIT B

GAVILAN RESOURCES, LLC, Case No. 20-32656 (DRJ)

First Class Add

CORE GEOLOGIC LLC
ATTN: DANIEL LOWRIE, VP
1600 BROADWAY SUITE 1480
DENVER, CO 80202

EXHIBIT C

GAVILAN RESOURCES, LLC, Case No. 20-32656 (DRJ)

Core/Master Service Email List

Creditor Name	Email Address
ARNOLD & PORTER KAYE SCHOLER LLP	MICHAEL.MESSERSMITH@ARNOLDPORTER.COM
ARNOLD & PORTER KAYE SCHOLER LLP	ROSA.EVERGREEN@ARNOLDPORTER.COM
ARNOLD & PORTER KAYE SCHOLER LLP	CHRISTOPHER.ODELL@ARNOLDPORTER.COM
CORE GEOLOGIC LLC	DLOWEIE@CORELOGIC.COM
CRADY JEWETT MCCULLEY & HOUREN, LLP	SMARMON@CJMHLAW.COM
DIMMIT COUNTY TAX OFFICE	MVALDEZ@PBFCM.COM
DRILLING INFO INC	INFO@DRILLINGINFO.COM
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP	BRAD.ERIC.SCHELER@FRIEDFRANK.COM;GARY.KAPLAN@FRIEDFRANK.COM;CARL.STAPEN@FRIEDFRANK.COM; BRYAN.CIMALA@FRIEDFRANK.COM
KANE RUSSELL COLEMAN LOGAN PC	JCOLEMAN@KRCL.COM;ECF@KRCL.COM
MCKOOL SMITH, P.C.	HRAY@MCKOOLSMITH.COM; JSPARACINO@MCKOOLSMITH.COM;VMANNING@MCKOOLSMITH.COM
MITSUI E&P TEXAS LP	K.GOMI@MITSUI.COM
NYSE MARKET (DE), INC.	ASHA.SHAH@THEICE
OFFICE OF UNITED STATES TRUSTEE	HECTOR.DURAN.JR@USDOJ.COM, STEPHEN.STATHAM@USDOJ.GOV
SILVERSAND SERVICES INC	MLLOYD@SILVERSANDSERVICES.COM
SIMPSON THACHER & BARTLETT LLP	EGRAFF@STBLAW.COM
SIMPSON THACHER & BARTLETT LLP	RRABALAIS@STBLAW.COM
SN EF MAVERICK LLC	MCAVENAUGH@JW.COM
SNOW SPENCE GREEN LLP	ROSS@SNOWSPENCELAW.COM
US ATTORNEY'S OFFICE	USATXS.ATTY@USDOJ.GOV
VENADO EF LP	OWNER.RELATIONS@VOGLLC.COM
WGR OPERATING LP	MICHAEL_URE@OXY.COM
WALLER LANSDEN DORTSCH & DAVIS, LLP	MARK.TAYLOR@WALLERLAW.COM

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re :	§	**Chapter 11**
GAVILAN RESOURCES, LLC, *et al.*,	§	**Case No. 20-32656 (DRJ)**
	§	**(Jointly Administered)**
Debtors.[1]	§	

BID PROCEDURES

On May 15, 2020, Gavilan Resources, LLC and its debtor-affiliates (the "Debtors"), as debtors in possession, each filed a voluntary petition for relief (the "Cases") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

On June 4, 2020, the Debtors filed a Motion (the "Bid Procedures and Sale Motion")[2] with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Court"), seeking, among other things, approval of these Bid Procedures (as defined below). These Bid Procedures were approved and authorized pursuant to the *Order Establishing Bid Procedures Relating to the Sale of the Debtors' Assets* (the "Bid Procedures Order") entered by the Court. The Bid Procedures Order, among other things, authorized the Debtors to solicit bids in accordance with the procedures outlined herein (collectively, the "Bid Procedures") in connection with the proposed sale (the "Sale") of all, or substantially all, of the Debtors' oil and natural gas assets and related contracts and other assets (the "Assets") to a potential stalking horse bidder (the "Stalking Horse Bidder") or, absent a stalking horse bidder or in the event the Stalking Horse Bidder is not the Successful Bidder (as defined below), then to the Successful Bidder (as applicable, the "Purchaser"), pursuant to an asset purchase agreement (the "APA"), which will provide for, among other things, payment of all applicable Cure Amounts (as defined below) by the Purchaser. A form of the APA (the "Form APA") will be posted to the Data Room (as defined below).

The key dates for the sale process are as follows. The Debtors, after consultation with the Consultation Parties, may extend any of the deadlines, or delay any of the applicable dates, in these Bid Procedures.

---

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Gavilan Resources, LLC (6688); Gavilan Resources HoldCo, LLC (6425); Gavilan Resources Holdings, LLC (4496); and Gavilan Resources Management Services, LLC (3961). The Debtors' mailing address is 920 Memorial City Way, Suite 1400, Houston, Texas 77024.

[2] All capitalized terms not herein defined shall have the meanings ascribed to them in the Bid Procedures and Sale Motion.

Date	Event
July 20, 2020 at 5:00 p.m. (prevailing Central Time)	Bid Deadline (for all parties other than the Agents (as defined below))
July 22, 2020 (Second (2nd) business day following the Bid Deadline)	Deadline for the Debtors to provide the Auction Participants (as defined below) and the Agents a copy of the Initial Highest Bid Deadline to File Notice of Desired 365 Contracts
July 23, 2020 (Third (3rd) business day following the Bid Deadline) at 5:00 p.m. (prevailing Central Time)	Agent Credit Bid Deadline
July 24, 2020 (Fourth (4th) business day following the Bid Deadline) at 3:00 p.m. (prevailing Central Time)	Deadline to notify Auction Participants of an Agent's exercise of its Credit Bid Right and to provide Auction Participants a copy of the Initial Credit Bid if it is determined to be the Initial Highest Bid
July 27, 2020 (Fifth (5th) business day following the Bid Deadline) at 1:00 p.m. (prevailing Central Time)	Auction
July 28, 2020 (One (1) business day following conclusion of the Auction)	Deadline to File Notice of (a) Successful Bid and Back-Up Bid, (b) Identity of Successful Bidder and Back-Up Bidder, and amended Notice of Desired 365 Contracts (if applicable)
July 30, 2020 at 5:00 p.m. (prevailing Central Time) (Two business days following notice)	Sale Objection Deadline and Contract Objection Deadline for objections based on (1) the manner in which the Auction was conducted, (2) the identity of the Successful Bidder or Back-up Bidder, (3) Cure Costs; (4) the objection to the assignment of any Asset, including any Desired 365 Contract; or (5) the ability of the Successful Bidder or Back-up Bidder to provide adequate assurance of future performance to counterparties to executory contracts and unexpired leases contemplated to be assumed or assigned to the Successful Bidder or Back-up Bidder.
July 31, 2020	Sale Hearing

1. Assets to be Sold

The Debtors will offer for sale the Assets in accordance with these Bid Procedures, with a presumed Effective Time of April 1, 2020 (unless otherwise agreed by Debtors).

2. Selection of a Stalking Horse Bidder

The Debtors, in consultation with the Consultation Parties (as defined below), may enter into an asset purchase agreement (a "Stalking Horse Agreement") with the Stalking Horse Bidder to establish a minimum bid at the auction (the "Auction").

The Stalking Horse Agreement may contain (a) an expense reimbursement for the reasonable, documented out-of-pocket expenses of the Stalking Horse Bidder incurred in connection with the Stalking Horse Agreement in an aggregate amount not to exceed $500,000 and (b) a break-up fee for the Stalking Horse Bidder in an amount not to exceed three percent (3%) of the cash portion of the purchase price under the Stalking Horse Agreement (clauses (a) and (b) of this sentence, collectively, the "Bid Protections"), payable only from the proceeds of a Sale with a Qualified Bidder (as defined below) other than the Stalking Horse Bidder, or otherwise if an alternative transaction is accomplished through a chapter 11 plan following the termination of the Stalking Horse Agreement on account of pursuing an alternative Sale or transaction. The Bid Protections shall be an allowed administrative expense.

In the event that the Debtors, in consultation with the Consultation Parties, select a party to serve as the Stalking Horse Bidder, upon such selection, the Debtors shall file the Stalking Horse Agreement with the Court and provide the following parties four (4) days' notice of and an opportunity to object to the designation of the Stalking Horse Bidder and the Bid Protections set forth in the Stalking Horse Agreement: (a) (i) any party that has requested notice pursuant to Bankruptcy Rule 2002 and (ii) any other party entitled to notice pursuant to Local Rule 9013-1(d); (b) the Agent[3] and the Second Lien Agent and, except for the RBL Lenders and Second Lien Lenders, all other entities known to have asserted any lien, claim, interest, or encumbrance in or upon any of the Assets; (c) federal, state, county and city tax and regulatory authorities to which the Debtors are subject, to the extent reasonably known to the Debtors; (d) the counterparties to each executory contract or unexpired lease proposed to be assumed and assigned to the Stalking Horse Bidder (such contracts or unexpired leases, the "Desired 365 Contracts"); (e) certain other parties who have expressed an interest in acquiring or investing in the Debtors or any of the Assets; (f) counsel to the Official Committee of Unsecured Creditors, if any; and (g) counsel to the Stalking Horse Bidder.

[3] As used herein, (i) the term "Agent" shall mean JPMorgan Chase Bank, N.A., in its capacity as administrative agent and collateral agent for the lenders (the "RBL Lenders") under that certain Credit Agreement, dated as of March 1, 2017 (as amended or modified from time to time) (the "RBL") and (ii) the term "Second Lien Agent" shall mean Wilmington Trust, National Association, in its capacity as administrative and collateral agent for the lenders (the "Second Lien Lenders") under that certain Second Lien Term Loan Credit Agreement, (dated as of March 1, 2017 (as amended or modified from time to time)). Together, the Agent and the Second Lien Agent shall be referred to herein as the "Agents".

3. Participation Requirements

Any person wishing to participate in the process to bid on the Assets as provided in the Bid Procedures Order (each such person, a "Potential Bidder") must become a "Qualified Bidder." As a prerequisite to becoming a Qualified Bidder, a Potential Bidder must:

a. deliver an executed confidentiality agreement in form and substance acceptable to the Debtors (a "Bidder Confidentiality Agreement"); and

b. be able, as determined by the Debtors, in consultation with the Consultation Parties, to consummate a Sale based on a Qualifying Bid (as defined below).

The Debtors shall determine whether a Potential Bidder who satisfies the foregoing prerequisites shall be deemed a "Qualified Bidder."

The Stalking Horse Bidder, if any, is deemed to be a Qualified Bidder and the Stalking Horse Agreement constitutes a Qualifying Bid for all purposes.

The Debtors reserve the right, in consultation with the Consultation Parties, (a) at any time to require any Potential Bidder previously determined to be a Qualified Bidder (other than the Stalking Horse Bidder, if any) to provide additional evidence of its ability to consummate a Sale based on a Qualifying Bid in order to remain a Qualified Bidder, and (b) to exclude any such Potential Bidder (other than the Stalking Horse Bidder, if any) from participating further in the Auction as a result of its inability to satisfy such further requirements to remain a Qualified Bidder.

4. Due Diligence

The Debtors will provide any Potential Bidder who has executed a Bidder Confidentiality Agreement with reasonable access to the Debtors' confidential electronic data room concerning the Assets (the "Data Room") and any other additional information that the Debtors believe to be reasonable and appropriate under the circumstances.

The Debtors reserve the right, in their reasonable discretion, to withhold or limit access to any due diligence information that the Debtors determine is business-sensitive or otherwise not appropriate for disclosure to a Potential Bidder. Notwithstanding any prepetition limitations, including, without limitation, any non-disclosure, confidentiality or similar provisions relating to any due diligence information, the Debtors and their respective estates will be authorized to provide due diligence information to each Potential Bidder provided that such Potential Bidder has delivered an executed Bidder Confidentiality Agreement. Except as may be set forth in a Bidder Confidentiality Agreement, the Debtors and their respective estates are not responsible for, and will have no liability with respect to, any information obtained by, or provided to, any Potential Bidders in connection with these Bid Procedures and the Sale.

The Debtors have designated Lazard ("Lazard") to coordinate the response to all reasonable requests for additional information and due diligence from Qualified Bidders. Contact information for Lazard is as follows: Lazard, 600 Travis Street, 33rd Floor, Houston, TX 77002, Attention: Kevin Bonebrake (713-236-4625, kevin.bonebrake@lazard.com), Christian Tempke (212-632-6102, christian.tempke@lazard.com), Harris Ghozali (713-236-4685, harris.ghozali@lazard.com), Mark Lund (713-236-4639, mark.lund@lazard.com), Mark Sooby

(713-236-4638, mark.sooby@lazard.com), and Zac Scotton (713-236-4652, zac.scotton@lazard.com).

The Debtors and their representatives shall not be obligated to furnish any due diligence information after the Bid Deadline (as defined below). Neither the Debtors nor any of their respective representatives are obligated to furnish any information relating to the Assets to any person other than a Potential Bidder who has executed a Bidder Confidentiality Agreement. Due diligence shall be completed on or before the Bid Deadline.

Each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making a bid; that it has relied solely upon its own independent review, investigation and/or inspection of any documents and the Assets in making its bid; and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise regarding the Assets, or the completeness of any information provided in connection therewith, except as expressly stated in these Bid Procedures or such Qualified Bidder's Bidder Confidentiality Agreement.

5. Bid Requirements/Determination of Qualifying Bid Status

To be deemed a "Qualifying Bid," a bid must be *received* from a Qualified Bidder by a date no later than the Bid Deadline and must:

a. Identification of Qualified Bidder. Identify (i) the party submitting the bid (and any equity holders or other financial backer, in the case of a Qualified Bidder which is an entity specially formed for the purpose of effectuating the contemplated Sale) and the representatives thereof who are authorized to appear and act on its behalf for all purposes regarding the contemplated Sale, and (ii) the material terms of any such participation, including any binding agreements, arrangements, undertakings, contractual obligations or understandings concerning a collaborative or joint bid or any other combination concerning the proposed Bid.

b. Purchase Price Allocation. Specify the portion of the aggregate purchase price that is being allocated to each of the Assets.

c. Irrevocability of Bid. Include a letter stating that the Qualified Bidder's offer is irrevocable[4] until the closing of the Sale if such Qualified Bidder is the Successful Bidder, and that the Qualified Bidder agrees to serve as a Back-up Bidder if such bidder's Qualifying Bid is selected as the next highest or otherwise next best bid after the Successful Bid (as defined below) (the "Back-up Bid," and the Qualified Bidder making the Back-up Bid, the "Back-up Bidder"); provided, that neither Agent shall be deemed

[4] The Back-up Bidder (as defined herein) shall be required to keep its bid open and irrevocable as specified in Section 12(l).

to be a Back-Up Bidder in respect of a Credit Bid unless it so agrees in writing.

d. Consideration. Identify the consideration to be paid for the Assets, which shall be in cash (or such other consideration as is acceptable to the Debtors, after consultation with the Consultation Parties).

e. Assumed Liabilities. Identify the Debtors' liabilities that the Qualified Bidder seeks to assume.

f. Identification of Executory Contracts and Unexpired Leases and other Contracts. (i) Identify with particularity the Debtors' executory contracts and unexpired leases with respect to which the Qualified Bidder seeks to assume and receive an assignment or to reject, (ii) provide for the payment by the Qualified Bidder of all cure amounts (the "Cure Amounts") payable with respect to such executory contracts and unexpired leases to be assumed and assigned contracts and leases under the Bankruptcy Code, and (iii) identify with particularity the Debtors' other contracts and leases with respect to which the Qualified Bidder seeks to assume and receive an assignment.

g. Adequate Assurance Information. Include sufficient financial or other information (the "Adequate Assurance Information") to establish adequate assurance of future performance with respect to any lease or contract to be assigned to the Qualified Bidder in connection with the proposed Sale. The bid shall also identify a contact person (with relevant contact information) that counterparties to any lease or contract can contact to obtain additional Adequate Assurance Information.

h. Asset Purchase Agreement. Include a duly authorized and executed asset purchase agreement providing for the purchase of the Assets (the "Qualified Bidder Agreement"), together with a copy of such agreement marked to show the specific changes to the Stalking Horse Agreement (or, in the case of a bid to become the Stalking Horse Bidder, or if there is no Stalking Horse Agreement, the Form APA) that the Qualified Bidder requires. The Qualified Bidder Agreement shall:

i. other than with respect to the Stalking Horse Agreement, be on terms that, in the Debtors' reasonable business judgment after consultation with the Consultation Parties, are higher or better than the terms and conditions contained in the Stalking Horse Agreement, if any;

ii. include a complete set of all disclosure schedules and exhibits thereto marked to show the specific changes to the disclosure schedules and exhibits to the Stalking Horse Agreement (or, in the case of a bid to become the Stalking Horse Bidder, or if there is no Stalking Horse Agreement, the Form APA); and

iii. not condition the closing of the proposed Sale on the receipt of any third party approvals (excluding that required by the Court, governmental, and/or regulatory approval).

i. Limited Contingencies. Include sufficient financial or other information to demonstrate that the bid is not conditioned on (A) obtaining financing, (B) any internal approval, (C) the outcome or review of unperformed due diligence (unless otherwise agreed upon by the Debtors, after consultation with the Consultation Parties), it being understood that a bid may be conditioned on the accuracy at closing of specified representations or warranties (as provided in the Form APA or the Stalking Horse Agreement, if any), or (D) regulatory contingences, except as provided under the "Regulatory Approvals and Covenants" section below.

j. Value to the Estate in Excess of Stalking Horse Agreement, if any. If a Stalking Horse Bidder is selected prior to the Bid Deadline, result in value to the Debtors' estates that, in the Debtors' reasonable business judgment after consultation with the Consultation Parties, is more than the aggregate of the value of the sum of: (A) the cash purchase price of the Stalking Horse Agreement; plus (B) the Stalking Horse Bidder's assumed liabilities in an estimated amount determined by the Debtors in consultation with the Consultation Parties; plus (C) the sum of the Bid Protections, if any; plus (D) $100,000.

k. Evidence of Financial Ability. Include sufficient evidence of the Qualified Bidder's ability to consummate the Sale and payment of the purchase price in cash (or such other consideration as is acceptable to the Debtors, after consultation with the Consultation Parties) at the date the Sale is scheduled to close, including, but not limited to:

i. evidence of the Qualified Bidder's internal resources and proof of unconditional debt funding commitments from a recognized financial institution and, if applicable, equity commitments in an aggregate amount equal to the purchase price and the Cure Amounts, if any, or the posting of an irrevocable letter of credit from a recognized banking institution issued in favor of the Debtors in such amount, in each case, as are needed to close the Sale;

ii. contact names and telephone numbers for verification of financing sources;

iii. current audited financial statements (or such other form of financial disclosure and credit-quality support or enhancement, acceptable to the Debtors in consultation with the Consultation Parties) of the Qualified Bidder or those entities that will guarantee in full the payment obligations of the Qualified Bidder;

iv. a description of the Qualified Bidder's pro forma capital structure; and

v. any such other form of financial disclosure or credit-quality support information or enhancement reasonably requested by the Debtors demonstrating that such Qualified Bidder has the ability to close the Sale.

l. Deposit. Is accompanied by a cash deposit by wire transfer to an escrow agent selected by the Debtors (the "Deposit Agent") in an amount equal to the greater of (x) 10% of the cash purchase price of the bid and (y) $1,000,000 that will constitute liquidated damages to the Debtors if the Qualified Bidder shall default with respect to its offer (the "Good Faith Deposit"). The Qualified Bidder must deliver the Good Faith Deposit on or before the Bid Deadline.

m. No Break-Up Fee. Except for the Stalking Horse Bidder, include sufficient information to indicate that the Qualified Bidder is not entitled to any break-up fee, expense reimbursement, or similar type of payment.

n. Due Diligence. Include a letter acknowledging and representing that the Qualified Bidder:

i. has had an opportunity to conduct, and has completed, any and all due diligence regarding the Assets deemed necessary by the Qualified Bidder before making its bid;

ii. has relied solely on its own independent review, investigation and/or inspection of any documents and the Assets in making its bid; and

iii. did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Assets, or the completeness of any information provided in connection therewith, except as expressly stated in these Bid Procedures and in the representations and warranties contained in the Form APA submitted as part of the Qualifying Bid (as it may be modified before acceptance and execution by the Debtors) and disclaims reliance on any such written or oral statements, representations, promises, warranties or guaranties.

o. Corporate Authority. Include sufficient evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the Qualified Bidder Agreement; provided that, if the Qualified Bidder is an entity specially formed for the purpose of effecting the Sale, then the Qualified Bidder must furnish sufficient evidence reasonably acceptable to the Debtors of the approval of the submission of the Bid and

consummation of the Sale by equity holder(s) of such Qualified Bidder, in each case, in consultation with the Consultation Parties.

p. Regulatory Approvals and Covenants. Identify each regulatory and (without limiting Section 5(h)(iii)) third-party approval required for the Qualified Bidder to consummate the Sale, if any, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than thirty (30) days following the execution and delivery of the Qualified Bidder Agreement, those actions the Qualified Bidder will take to ensure receipt of such approvals as promptly as possible).

q. Consent to Jurisdiction and Authority to Enter Final Orders. State that the Qualified Bidder consents to the jurisdiction of the Court and to the entry of a final judgment or order with respect to the Qualified Bidder's offer, as well as with respect to any aspect of these Bid Procedures and Sale Motion, including these Bid Procedures, and all orders of the Court entered with respect to the Sale, if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

The Debtors, in consultation with the Consultation Parties, shall determine whether a competing bid that meets the above requirements constitutes a "Qualifying Bid." The Debtors shall notify bidders whether their bids have been determined to be Qualifying Bids promptly following the Bid Deadline.

6. Bid Deadline

a. A Qualified Bidder that desires to make a bid shall deliver a written or electronic copy of its conforming bid so as to be received no later than **5:00 p.m. (prevailing Central Time) on July 20, 2020** (the "Bid Deadline"), unless such date is extended by the Debtors in consultation with the Consultation Parties, to (i) investment banker for the Debtors, Lazard, 600 Travis Street, 33rd Floor, Houston, TX 77002, Attention: Kevin Bonebrake (kevin.bonebrake@lazard.com), Christian Tempke (christian.tempke@lazard.com), Harris Ghozali (harris.ghozali@lazard.com), Mark Lund (mark.lund@lazard.com), and Zac Scotton (zac.scotton@lazard.com), and (ii) counsel to the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana, Suite 1700, Houston, TX 77002, Attention: Alfredo R. Perez (alfredo.perez@weil.com), Garrett Fail (garrett.fail@weil.com), Rodney L. Moore (rodney.moore@weil.com), and Samuel C. Peca (samuel.peca@weil.com) (the "Debtors' Counsel"). The Debtors shall notify the Stalking Horse Bidder and other Qualified Bidders that have submitted Qualifying Bids if one or more Qualifying Bids are received.

b. The Debtors, in consultation with the Consultation Parties, may extend the Bid Deadline at any time on or before the date of the Bid Deadline. If the Debtors extend the Bid Deadline, the Debtors will promptly notify all Qualified Bidders of such extension.

c. Bids submitted on or prior to the Bid Deadline are binding, irrevocable and capable of acceptance until the closing of the Auction, or, in the case of the Successful Bid and the Back-up Bid, after the Auction as set forth below.

7. Aggregate Bids

Persons who collectively are referred to as a "Qualified Bidder" need not be affiliates and need not act in concert with one another and the Debtors may, in consultation with the Consultation Parties, aggregate separate bids from unaffiliated persons to create one bid from a Qualified Bidder; provided, however, that all bidders shall remain subject to the provisions of Bankruptcy Code section 363(n) regarding collusive bidding and the applicable Bidder Confidentiality Agreement.

8. Evaluation of Qualifying Bids

a. The Debtors shall determine, in their reasonable judgment after consultation with the Debtors' financial and legal advisors and with the Consultation Parties, which of the Qualifying Bids is the highest or best bid for the Assets (the "Initial Highest Bid").

b. Not later than the second (2nd) day following the Bid Deadline, the Debtors will provide to the Auction Participants (as defined below), the Agents and the Second Lien Ad Hoc Group a copy of the Initial Highest Bid. To allow the Auction Participants to evaluate the Initial Highest Bid, the Debtors shall use commercially reasonable efforts to disclose the value that, in their business judgment and in consultation with the Consultation Parties, they place on the Initial Highest Bid. The Debtors shall also use commercially reasonable efforts to disclose to each Auction Participant the value that, in their business judgment, they place on such Auction Participant's Qualifying Bid. An Initial Credit Bid (as defined below) may become the Initial Highest Bid if the Debtors determine, in their reasonable judgment after consultation with the Debtors' financial and legal advisors, that the Initial Credit Bid is the highest or best bid for the Assets. In the event that the Agent or Second Lien Agent exercises its Credit Bid Right (as defined below), (i) the Debtors shall notify Auction Participants of such exercise of the Credit Bid Right no later than 5:00 p.m. (prevailing Central Time) on the third (3rd) day following the Bid Deadline (or if the Auction is adjourned, then 1:00 p.m. (prevailing Central Time) two (2) days prior to the commencement of the Auction); and (ii) in the event that an Initial Credit Bid becomes the Initial Highest Bid, the Debtors will provide the Auction Participants a copy of the Initial Credit Bid via email promptly after the Debtors determine, in their business judgment, that the Initial Credit Bid is the Initial Highest Bid, and in no event later than 3:00 p.m. (prevailing

Central Time) on the fourth (4th) day following the Bid Deadline (or if the Auction is adjourned, then in no event later than 3:00 p.m. (prevailing Central Time) the day before the Auction).

c. Any bid that is not deemed a Qualifying Bid shall not be considered by the Debtors; provided, however, that if the Debtors receive a bid prior to the Bid Deadline that does not satisfy the requirements of a Qualified Bid, the Debtors may, after consultation with the Consultation Parties, provide such bidder the opportunity to remedy deficiencies in such bid prior to the Auction.

9. No Qualifying Bids

Subject to the Agent's right to exercise its Credit Bid Right, if only one timely Qualifying Bid (including the Stalking Horse Bidder's bid, if any) is received by the Bid Deadline or if the Stalking Horse Bidder's Qualifying Bid is determined to be the Initial Highest Bid and there are no other Qualifying Bids, the Debtors shall not hold an Auction.

10. Right to Credit Bid/Plan Toggle Right

In conjunction with any Sale and except as otherwise provided herein, the Agents shall have the right, pursuant to section 363(k) of the Bankruptcy Code, to credit bid any portion and up to the entire amount of their respective prepetition claims, as applicable, on any individual Asset, portion of the Assets, or all Assets, in each case constituting Prepetition Collateral (as defined in the Interim Cash Collateral Order[5]) (the "Credit Bid Right"); provided, that the Second Lien Agent may only exercise its Credit Bid Right if its bid provides for the payment in full in cash of all amounts outstanding under the RBL.

If either of the Agents exercises its Credit Bid Right such that it is received by the Debtors on or before **July 23, 2020** (three (3) business days following the Bid Deadline (or, if the Auction is adjourned prior to such date, then 1:00 p.m. (prevailing Central Time)) two (2) business days prior to the commencement of the rescheduled Auction) (the "Agents Credit Bid Deadline" and such submitted credit bid, an "Initial Credit Bid"), then such Initial Credit Bid shall be deemed to be a Qualifying Bid and the Agent and Second Lien Agent, as applicable, shall be deemed to be a Qualified Bidder; provided, however, that the Agent and Second Lien Agent reserves and has the right to exercise its Credit Bid Right to increase its Initial Credit Bid at any time prior to the conclusion of the Auction. The Debtors shall notify the Agents and the Second Lien Ad Hoc Group prior to the Agents Credit Bid Deadline of any request to adjourn the Auction. If the Agent or Second Lien Agent does not submit an Initial Credit Bid, then it shall not be a Qualified Bidder. An Initial Credit Bid need not exceed the Initial Highest Bid to be deemed a Qualifying Bid. If the Agent or Second Lien Agent notifies the Debtors that it will not exercise its Credit Bid Right, prior to the commencement of the Auction the Debtors shall provide the Agent and the Second Lien Agent copies of all Qualifying Bids received, all other information provided to the Debtors by each Qualified Bidder, and all related information regarding the Qualifying Bids. If the Agent

[5] As used herein, the term "Interim Cash Collateral Order" shall mean the Interim Order Pursuant To 11 U.S.C. §§ 105, 361, 362, 363, 503, And 507 And Fed. R. Bankr. P. 2002, 4001, 6004, And 9014 (I) Authorizing Debtors To Use Cash Collateral, (II) Granting Adequate Protection To Prepetition Secured Parties, (III) Scheduling A Final Hearing, And (IV) Granting Related Relief, as ordered by the Bankruptcy Court at Docket No. 55 on May 18, 2020.

or Second Lien Agent notifies the Debtors that it will not exercise its Credit Bid Right, then the Agent or Second Lien Agent, as applicable, shall not be permitted to exercise its Credit Bid Right.

Provided that the Agent or Second Lien Agent timely submits an Initial Credit Bid, the Agent or Second Lien Agent, as applicable, shall be deemed to be a Qualified Bidder in all respects, the Credit Bid Right shall be deemed to be a Qualifying Bid in all respects, and the Agent and Second Lien Agent may credit bid at any time prior to the conclusion of the Auction regardless of whether the Agent or Second Lien Agent participated in prior rounds of the Auction. The Agents shall not be required to submit a Good Faith Deposit, Qualified Bidder Agreement, or any other deliverable or documentation to the Debtors, the Debtors' Counsel, or their representatives or agents, and neither Agent shall be deemed to be the Back-Up Bidder unless it so agrees in writing. Upon exercise of the Credit Bid Right, the Agents shall not be required to take title to or ownership of, or have any obligation in connection with (in each case, legal, equitable, or otherwise), or be deemed to have taken title to or ownership of, or have any obligation in connection with (in each case, legal, equitable, or otherwise), any individual Asset, portion of the Assets, or all of the Assets, and the Agent shall have the right to designate any person or entity that shall take title to the individual Asset, portion of the Assets, or all of the Assets that are subject to the Credit Bid Right. No other person may credit bid on the Prepetition Collateral unless the entire amount of the prepetition claim will be paid in full in cash on the closing of the proposed Sale.

If (i) the Auction is cancelled or adjourned by the Debtors, after consultation with the Consultation Parties, or (ii) through the exercise of the Credit Bid Right, the Agent or Second Lien Agent becomes the Successful Bidder at the Auction, then the Sale Hearing shall, as applicable, be cancelled or adjourned for such period as the Agent or Second Lien Agent determines, as applicable, and the Agent or Second Lien Agent, as applicable, may elect for the Debtors to implement a sale under section 363 of the Bankruptcy Code or an alternative transaction accomplished through a chapter 11 plan, including, without limitation, a plan in which the Prepetition Secured Parties (as defined in the Interim Cash Collateral Order) receive or retain debt instruments and/or receive equity securities, in each case acceptable to the Agents and (y) if a plan is accepted as provided in section 1126 of the Bankruptcy Code (the "Plan"), acceptable to each class in which the Prepetition Secured Parties' claims are classified for treatment (the "Plan Toggle Right").

11. Highest or Otherwise Best Bid

Whenever these Bid Procedures refer to the highest or best bid or value, such determination shall take into account any factors the Debtors reasonably deem relevant to the value of such bid to the Debtors' estates and may include, but are not limited to, the following: (i) the amount and nature of the consideration, including any obligations to be assumed; (ii) the executory contracts and unexpired leases of the Debtors, if any, for which assumption and assignment or rejection is required, and the costs and delay associated with any litigation concerning executory contracts and unexpired leases necessitated by such bid; (iii) the number, type and nature of any changes to the Form APA or the Stalking Horse Agreement, as applicable, requested by each Qualified Bidder; (iv) the extent to which such modifications are likely to delay closing of the sale of the Assets and the cost to the Debtors of such modifications or delay; (v) the likelihood of the Qualified Bidder being able to close the proposed transaction (including obtaining any required regulatory approvals) and the timing thereof; and (vi) the net benefit to the Debtors' estates.

12. Auction

In the event that (x) the Debtors timely receive one or more Qualifying Bids or (y) a Stalking Horse Bidder is selected and the Debtors receive a Qualifying Bid that the Debtors in their business judgment, in consultation with the Consultation Parties, determine to be the Initial Highest Bid, the Debtors shall conduct the Auction with respect to such Qualifying Bids in order to determine, in the business judgment of the Debtors, after consultation with the Consultation Parties, the Successful Bid. The Auction shall be governed by the following procedures:

a. Only the Stalking Horse Bidder, if any, and the other Qualified Bidders who have made a Qualifying Bid shall be entitled to make any subsequent Qualifying Bids at the Auction (the "Auction Participants"). Prior to the commencement of the Auction, the Debtors shall notify the Agents and all Auction Participants of the identity of the other Auction Participants (and any equity holders, in the case of an Auction Participant which is an entity specially formed for the purpose of effectuating the contemplated Sale). Prior to the commencement of the Auction, the Debtors shall provide the Agents and all Qualified Bidders general information regarding the sale process, including the number of parties submitting Qualifying Bids.

b. The Debtors, the Agents, the Auction Participants, their respective professionals, any representative of any official committee, and a representative from the Office of the United States Trustee, may participate and be heard at the Auction, but only the Auction Participants (including the Stalking Horse Bidder, if any) will be entitled to make any subsequent Qualifying Bids at the Auction. If the Stalking Horse Bidder or any other Qualified Bidder appears through a duly authorized representative, such representative must have been granted a valid and enforceable power of attorney or have other written proof evidencing his or her ability to bind such party, which document(s) shall be delivered to the Debtors at least one business day before the Auction.

c. The Auction, if required, shall commence at **1:00 p.m. (prevailing Central Time) on July 27, 2020 (the fifth (5th) business day following the Bid Deadline** and will (unless the Debtors provide notice otherwise) be held electronically via video/telephone, or at such later time or other place as designated by the Debtors, in consultation with the Consultation Parties, or approved by order of the Court, and of which the Debtors will notify the Auction Participants.

d. Bidding shall commence at the amount and terms of the Initial Highest Bid, with the next bids to exceed the Initial Highest Bid by the increment set forth below.

e. Each of the Auction Participants shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale.

f. At the commencement of the Auction, the Debtors shall formally announce the Initial Highest Bid. For each round, all Qualifying Bids at the Auction will be based on the Initial Highest Bid and increased therefrom, and thereafter made in minimum increments of at least $100,000 higher than the previous Qualifying Bid, or in such other increments as the Debtors may determine, in consultation with the Consultation Parties. The value of any terms or non-cash consideration provided for in any Qualifying Bid shall be determined by the Debtors, in their reasonable business judgment in consultation with the Consultation Parties.

g. The Stalking Horse Bidder shall be entitled to submit successive Qualifying Bids as overbids at the Auction and, in calculating the amount of the Stalking Horse Bidder's overbid, the Stalking Horse Bidder shall be entitled to a credit in the amount of the Bid Protections. For example, if at the Auction a subsequent Qualifying Bid submitted by the Stalking Horse Bidder is the Successful Bid (over another Qualifying Bid that was submitted), then the purchase price that must be paid by the Stalking Horse Bidder pursuant to such Successful Bid shall be reduced by the amount of the Bid Protections.

h. The Auction Participants shall have the right to submit successive Qualifying Bids as overbids and make additional modifications to the Stalking Horse Agreement or the Qualified Bidder Agreement at the Auction; provided, however, that any such modifications to the Qualified Bidder Agreement on an aggregate basis and viewed in whole, shall be not less favorable to the Debtors' estates, as determined by the Debtors, in consultation with the Consultation Parties, than the terms of the highest or best Qualifying Bid at that time.

i. The Auction will be conducted openly and the Auction Participants will be informed of the terms of the highest or best previous Qualifying Bid.

j. Upon conclusion of the Auction, the Debtors will (i) review each Qualifying Bid on the basis of, *inter alia*, financial and contractual terms and other factors relevant to the purchase process, including those factors affecting the speed and certainty of consummating the Sale, and (ii) in consultation with the Consultation Parties, identify the highest or otherwise best bid (the "Successful Bid"). In making this determination, the Debtors may, in consultation with the Consultation Parties, consider, among other things, the amount of cash and other consideration to be paid and the liabilities to be assumed or otherwise satisfied.

k. The Qualified Bidder that submitted the Successful Bid shall, subject to all other provisions hereof, become the "Successful Bidder" and shall have such rights and responsibilities of the purchaser, as set forth in the Stalking Horse Agreement or Qualified Bidder Agreement, as applicable.

l. By making a Qualifying Bid at the Auction, an Auction Participant (including the Stalking Horse Bidder, if any) shall be deemed to have agreed to keep its final Qualifying Bid made at the Auction open through the earlier of (i) thirty (30) days after entry of the order approving the Sale with the Successful Bidder (the "Outside Back-up Date"), and (ii) the closing of the Sale with the Successful Bidder, if such Qualifying Bid is selected as the Back-up Bid.

m. To facilitate a deliberate and orderly consideration of competing Qualifying Bids submitted at the Auction, the Debtors may adjourn the Auction at any time and from time-to-time and may conduct multiple rounds of bidding. Before conclusion of the Auction, the Debtors may, in consultation with the Consultation Parties, permit one or more Auction Participants to join together as a single Qualified Bidder for the purpose of submitting a joint Qualifying Bid to acquire the Assets.

n. The Debtors, in consultation with the Consultation Parties, shall have the right to adopt such other rules for the Auction (including rules that may depart from those set forth herein) that they determine in their business judgment will promote the goals of the Auction, including promoting the highest or otherwise best value for the Debtors' estates.

o. Within one (1) business day following the conclusion of the Auction, the Successful Bidder shall submit by transfer of immediately available funds to an account identified by the Debtors the amount required to increase the Successful Bidder's Good Faith Deposit to ten percent (10%) of the cash purchase price contained in the Successful Bid, if the amount of the Good Faith Deposit previously delivered by the Successful Bidder is less than such amount.

13. Sale Hearing

a. The Successful Bid will be subject to approval by the Debtors, after consultation with the Consultation Parties, and the Court. Unless the Agent is the Successful Bidder at the Auction and chooses to implement its credit bid through the Plan, the evidentiary hearing to consider approval of the Successful Bid (the "Sale Hearing") will be held **at [●] (prevailing Central Time) on July 31, 2020,** or such other date as the Court's docket may accommodate. The Sale Hearing may be adjourned or rescheduled as ordered by the Court, or by the Debtors in consultation with the Consultation Parties, but without further notice to creditors and parties in interest other than by announcement by the Debtors of the adjourned date at the Sale Hearing; provided, that the Sale Hearing shall not be held if the Agent exercises the Plan Toggle Right. Unless the Debtors file and serve a revised notice, the Sale Hearing to approve the Sale shall be held electronically via video/telephone before the Court before the Honorable David R. Jones. If you wish to participate telephonically, you must use the Court's teleconference system at **1-832-917-1510** and entering conference

code **205691**. You may also join by videoconference by use of an internet connection, using the website **www.join.me**, selecting "**join a meeting**," and entering meeting code "**JudgeJones**."

b. The Debtors' presentation to the Court for approval of a Successful Bid does not constitute the Debtors' acceptance of the Successful Bid. The Debtors shall be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by order of the Court.

c. At the Sale Hearing, the Debtors will seek the entry of an order of the Court approving and authorizing the Sale to the Successful Bidder at the Auction on the terms and conditions of the Successful Bid. The Successful Bidder shall appear at the Sale Hearing and be prepared to testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner, including with respect to demonstrating adequate assurance of future performance that may be required in connection with any Desired 365 Contracts.

14. Return of Good Faith Deposit(s)

a. Except as provided herein, the Good Faith Deposit of all Qualified Bidders held by the Deposit Agent (other than the Stalking Horse Bidder, if any, the Successful Bidder and the Back-up Bidder) shall be returned, without interest, to each such Qualified Bidder not selected by the Debtors as the Successful Bidder no later than five (5) business days following the Auction, subject to the terms of the escrow agreement pursuant to which such Good Faith Deposit is held.

b. The Good Faith Deposit of the Stalking Horse Bidder and the Successful Bidder will be distributed pursuant to and in accordance with (i) the Stalking Horse Agreement or the Qualified Bidder Agreement, as applicable; and (ii) the escrow agreement pursuant to which such Good Faith Deposit is held.

c. Subject to the terms of the Qualified Bidder Agreement of the Back-up Bidder, the Good Faith Deposit of the Back-up Bidder shall be returned, without interest, no later than three (3) business days after the earlier to occur of: (i) the closing of the Sale with the Successful Bidder; or (ii) the Outside Back-up Date.

15. Failure to Consummate Sale

a. If the Auction is conducted, the party (including the Stalking Horse Bidder) with the next highest or best Qualifying Bid to the Successful Bid, as determined by the Debtors in the exercise of their business judgment and in consultation with the Consultation Parties, at the Auction shall serve as a Back-up Bidder and such bid shall be open and irrevocable until 5:00 p.m.

(prevailing Central Time) on the date which is the earlier of (i) Outside Back-up Date and (ii) the closing of the Sale with the Successful Bidder.

b. Following the Sale Hearing, if the Successful Bidder fails to consummate an approved Sale, the Back-up Bidder will be deemed to be the new Successful Bidder, and the Debtors, after consultation with the Consultation Parties, will be authorized to consummate the Sale with the Back-up Bidder without further order of the Court and such last Qualifying Bid of the Back-up Bidder shall thereupon be deemed the Successful Bid. A defaulting Successful Bidder's Good Faith Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all additional available damages from the defaulting Successful Bidder.

c. If any Auction Participant fails to consummate the Sale because of a breach or failure to perform on the part of such Auction Participant, the process described in this section may continue as determined by the Debtors in consultation with the Consultation Parties until an Auction Participant consummates the Sale.

16. Objections

a. Objections, if any, to the consummation of the Sale (the "Objections") shall be filed with the Court not later than **4:00 p.m. (prevailing Central Time) on July 30, 2020**.

b. Any Objections not resolved prior to the Sale Hearing shall be argued at the Sale Hearing or such other time as set by the Court.

17. Consultation Parties

The term "Consultation Parties" as used in these Bid Procedures will mean: (a) the Agent and its advisors (including Simpson Thacher & Bartlett LLP and RPA Advisors, LLC; and (b) counsel to the Second Lien Ad Hoc Group. In the event that either of the Agents submit a bid, such party shall no longer be a Consultation Party until such time as such party withdraws from bidding on the Assets subject to such bid.

For the avoidance of doubt, any consultation rights provided to the Consultation Parties by these Bid Procedures will not limit the Debtors' discretion in any way and will not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

In the event that any Consultation Party or an affiliate of the foregoing submits a bid that is a Qualified Bid, any obligation of the Debtors to consult with the bidding party or its affiliates established under these Bid Procedures will be waived, discharged and released without further action; provided that the bidding party will have the same rights as any other Qualified Bidder set forth above.

18. Modifications

Except as otherwise provided in the Stalking Horse Agreement, these Bid Procedures or the Bid Procedures Order, the Debtors reserve their rights, in their reasonable business judgment after consultation with the Consultation Parties, to:

a. (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualifying Bids; (iii) determine which Qualifying Bid, if any, is the highest or otherwise best proposal and which is the next highest or otherwise best proposal; and (iv) reject, at any time prior to the closing of the Auction or, if no Auction is held, at any time prior to entry of an order of the Court approving the Successful Bid, any bid that is (1) inadequate or insufficient, (2) not in conformity with the requirements of the Bankruptcy Code or these Bid Procedures, or (3) contrary to the best interests of the Debtors and their estates;

b. waive terms and conditions set forth in these Bid Procedures with respect to all potential bidders; and

c. modify these Bid Procedures or impose, at or before the Auction, additional terms and conditions for conducting the Auction (so long as such terms and conditions are not inconsistent in any material respect with the Bankruptcy Code, the Bid Procedures Order or any other order of the Court), including, without limitation: (i) extending the deadlines set forth in these Bid Procedures or the Auction rules as may be established as provided herein; (ii) modifying bidding increments; (iii) continuing or adjourning the Auction; (iv) continuing or adjourning the Sale Hearing in open court, or by filing a notice on the docket of the Cases, without further notice; (v) including any other party as an attendee at the Auction; (vi) withdrawing from the Auction the Assets at any time before or during the Auction; or (vii) canceling the Auction.