

REFINITIV

DELTA REPORT

10-Q

CLMT - CALUMET SPECIALTY PRODUCT

10-Q - JUNE 30, 2023 COMPARED TO 10-Q - MARCH 31, 2023

The following comparison report has been automatically generated

TOTAL DELTAS	13125

CHANGES	195

DELETIONS	1141

ADDITIONS	11789

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

Form 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE QUARTERLY PERIOD ENDED **MARCH 31, JUNE 30, 2023**

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE TRANSITION PERIOD FROM TO

Commission File Number: 000-51734

Calumet Specialty Products Partners, L.P.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

Delaware

35-

1811116

35-

1811116

(I.R.S.

Employer
Identification
Number)

(State or Other Jurisdiction of
Incorporation or Organization)

2780 Waterfront Parkway East '
Drive

Suite
200

Indianapolis, IN
(Address of Principal
Executive Offices)

IN 46214
(Zip
Code)

(317)

(317) 328-5660

(Registrant's Telephone Number, Including Area Code)

None

(Former Name, Former Address and Former Fiscal Year, If Changed Since Last Report)Report

Securities Registered Pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common units representing limited partner interests	CLMT	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐ ☒	Accelerated filer ☒
Non-accelerated filer	☐	Smaller reporting company ☐

Emerging
growth
company ☒

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

On May 5, 2023

On August 4, 2023, there were 79,958,262 common units outstanding.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

QUARTERLY REPORT

For the Three and Six Months Ended March 31, 2023

June 30, 2023

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FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (this "Quarterly Report") includes certain "forward-looking statements." These statements can be identified by the use of forward-looking terminology including "will," "may," "intend," "believe," "expect," "outlook," "anticipate," "estimate," "continue," "plan," "should," "could," "would," or other similar words. The statements regarding (i) the effect, impact, potential duration or other implications of supply chain disruptions, global energy shortages and the ongoing novel coronavirus ("COVID-19") pandemic on our business and operations; (ii) demand for finished products in markets we serve; (iii) estimated capital expenditures as a result of required audits or required operational changes or other environmental and regulatory liabilities; (iv) our anticipated levels of, use and effectiveness of derivatives to mitigate our exposure to crude oil price changes, natural gas price changes and fuel products price changes; (v) estimated costs of complying with the U.S. Environmental

Protection Agency's ("EPA") Renewable Fuel Standard ("RFS"), including the prices paid for Renewable Identification Numbers ("RINs") and the amount of RINs we may be required to purchase in any given compliance year, and the outcome of any litigation concerning our existing small refinery exemption ("SRE") petitions; (vi) our ability to meet our financial commitments, debt service obligations, debt instrument covenants, contingencies and anticipated capital expenditures; (vii) our access to capital to fund capital expenditures and our working capital needs and our ability to obtain debt or equity financing on satisfactory terms; (viii) our access to inventory financing under our supply and offtake agreements; (ix) general economic and political conditions, including inflationary pressures, instability in financial institutions, general economic slowdown or a recession, political tensions, conflicts and war (such as the ongoing conflict in Ukraine and its regional and global ramifications); (x) the future effectiveness of our enterprise resource planning system to further enhance operating efficiencies and provide more effective management of our business operations; and (xi) our expectation regarding our business outlook with respect to the Montana Renewables business, as well as other matters discussed in this Quarterly Report that are not purely historical data, are forward-looking statements. These forward-looking statements are based on our expectations and beliefs as of the date hereof concerning future developments and their potential effect on us. While management believes that these forward-looking statements are reasonable as and when made, there can be no assurance that future developments affecting us will be those that we anticipate. All comments concerning our current expectations for future sales and operating results are based on our forecasts for our existing operations and do not include the potential impact of any future acquisition or disposition transactions. Our forward-looking statements involve significant risks and uncertainties (some of which are beyond our control) and assumptions that could cause actual results to differ materially from our historical experience and our present expectations or projections. Factors that could cause our actual results to differ from those in the forward-looking statements include those described in Part I, Item 1A "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022 ("2022 Annual Report"). Certain public statements made by us and our representatives on the date hereof may also contain forward-looking statements, which are qualified in their entirety by the cautionary statements contained in this paragraph. Readers are cautioned not to place undue reliance on forward-looking statements, which speak only as of the date hereof. We undertake no obligation to publicly update or revise any forward-looking statements after the date they are made, whether as a result of new information, future events or otherwise.

References in this Quarterly Report to "Calumet Specialty Products Partners, L.P.," "Calumet," "the Company," "we," "our," "us" or like terms refer to Calumet Specialty Products Partners, L.P. and its subsidiaries. References in this Quarterly Report to "our general partner" refer to Calumet GP, LLC, the general partner of Calumet Specialty Products Partners, L.P.

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PART I

Item 1. *Financial Statements*

CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

CONDENSED CONSOLIDATED BALANCE SHEETS

	March 31, 2023	December 31, 2022
	(Unaudited)	
	(In millions, except unit data)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 11.2	\$ 35.2
Accounts receivable		
Trade, less allowance for credit losses of \$1.5 million and \$1.3 million, respectively	262.2	245.7
Other	34.7	22.3
	<u>296.9</u>	<u>268.0</u>
Inventories	454.8	498.0
Derivative assets	7.1	—
Prepaid expenses and other current assets	29.9	19.2
Total current assets	<u>799.9</u>	<u>820.4</u>
Property, plant and equipment, net	1,543.2	1,482.0
Other noncurrent assets, net	421.4	439.4
Total assets	<u>\$ 2,764.5</u>	<u>\$ 2,741.8</u>
LIABILITIES AND PARTNERS' CAPITAL (DEFICIT)		
Current liabilities:		
Accounts payable	\$ 394.3	\$ 442.4
Accrued interest payable	39.5	34.6
Accrued salaries, wages and benefits	75.1	93.0
Obligations under inventory financing agreements	204.0	221.8
Current portion of RINs obligation	419.5	399.3
Derivative liabilities	—	26.5
Other current liabilities	112.7	114.5
Current portion of long-term debt	20.6	20.0
Total current liabilities	<u>1,265.7</u>	<u>1,352.1</u>
Other long-term liabilities	52.9	60.2
Long-term RINs obligation, less current portion	25.2	77.5
Long-term debt, less current portion	1,696.8	1,539.7
Total liabilities	<u>\$ 3,040.6</u>	<u>\$ 3,029.5</u>
Commitments and contingencies		
Redeemable noncontrolling interest	\$ 250.0	\$ 250.0
Partners' capital (deficit):		
Limited partners' interest 79,835,801 units and 79,189,583 units issued and outstanding as of March 31, 2023 and December 31, 2022, respectively	\$ (518.9)	\$ (529.9)
General partner's interest	1.1	0.5
Accumulated other comprehensive loss	(8.3)	(8.3)
Total partners' capital (deficit)	<u>(526.1)</u>	<u>(537.7)</u>
Total liabilities and partners' capital (deficit)	<u>\$ 2,764.5</u>	<u>\$ 2,741.8</u>
	June 30, 2023	December 31, 2022

	(Unaudited)	
	(In millions, except unit data)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 36.0	\$ 35.2
Accounts receivable, net:		
Trade, less allowance for credit losses of \$1.2 million		
and \$1.3 million, respectively	252.8	245.7
Other	62.5	22.3
	315.3	268.0
Inventories	439.9	498.0
Derivative assets	14.7	—
Prepaid expenses and other current assets	41.5	19.2
Total current assets	847.4	820.4
Property, plant and equipment, net	1,536.4	1,482.0
Other noncurrent assets, net	420.4	439.4
Total assets	\$ 2,804.2	\$ 2,741.8
LIABILITIES AND PARTNERS' CAPITAL (DEFICIT)		
Current liabilities:		
Accounts payable	\$ 278.2	\$ 442.4
Accrued interest payable	35.7	34.6
Accrued salaries, wages and benefits	74.4	93.0
Obligations under inventory financing agreements	213.1	221.8
Current portion of RINs obligation	475.1	399.3
Derivative liabilities	—	26.5
Other current liabilities	99.8	114.5
Current portion of long-term debt	21.9	20.0
Total current liabilities	1,198.2	1,352.1
Other long-term liabilities	54.4	60.2
Long-term RINs obligation, less current portion	25.1	77.5
Long-term debt, less current portion	1,824.3	1,539.7
Total liabilities	\$ 3,102.0	\$ 3,029.5
Commitments and contingencies		
Redeemable noncontrolling interest	\$ 250.0	\$ 250.0
Partners' capital (deficit):		
Limited partners' interest (79,958,262 units and 79,189,583 units, issued and outstanding at June 30, 2023 and December 31, 2022, respectively)	\$ (540.3)	\$ (529.9)
General partner's interest	0.7	0.5
Accumulated other comprehensive loss	(8.2)	(8.3)
Total partners' capital (deficit)	(547.8)	(537.7)
Total liabilities and partners' capital (deficit)	\$ 2,804.2	\$ 2,741.8

See accompanying notes to unaudited condensed consolidated financial statements.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

	Three Months Ended March 31,	
	2023	2022
	(In millions, except per unit and unit data)	
Sales	\$ 1,036.9	\$ 1,097.9
Cost of sales	940.2	1,065.2
Gross profit	96.7	32.7
Operating costs and expenses:		
Selling	13.5	12.6
General and administrative	37.0	32.6
Other operating expense	3.0	4.8
Operating income (loss)	43.2	(17.3)
Other income (expense):		
Interest expense	(49.2)	(51.6)
Gain (loss) on derivative instruments	25.5	(22.1)
Other expense	(0.2)	(3.8)
Total other expense	(23.9)	(77.5)
Net income (loss) before income taxes	19.3	(94.8)
Income tax expense	0.5	0.7
Net income (loss)	\$ 18.8	\$ (95.5)
Net loss attributable to noncontrolling interest	(9.9)	—
Net income (loss) attributable to partners	\$ 28.7	\$ (95.5)
Allocation of net income (loss) to partners		
Net income (loss) attributable to partners	\$ 28.7	\$ (95.5)
Less:		
General partner's interest in net income (loss)	0.6	(1.9)
Net income (loss) attributable to limited partners	\$ 28.1	\$ (93.6)
Weighted average limited partner units outstanding:		
Basic	79,830,671	79,074,630
Diluted	79,939,985	79,074,630
Limited partners' interest basic net income (loss) per unit:		
Limited partners' interest	\$ 0.35	\$ (1.18)
Limited partners' interest diluted net income (loss) per unit:		
Limited partners' interest	\$ 0.35	\$ (1.18)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(In millions, except unit and per unit data)			
Sales	\$ 1,017.8	\$ 1,424.0	\$ 2,054.7	\$ 2,521.9
Cost of sales	946.4	1,280.1	1,886.6	2,345.3

Gross profit	71.4	143.9	168.1	176.6
Operating costs and expenses:				
Selling	15.5	16.2	29.0	28.8
General and administrative	27.3	22.5	64.3	55.1
Other operating expense	5.2	9.5	8.2	14.3
Operating income	23.4	95.7	66.6	78.4
Other income (expense):				
Interest expense	(55.8)	(42.6)	(105.0)	(94.2)
Gain (loss) on derivative instruments	14.3	(67.6)	39.8	(89.7)
Other expense	(5.5)	(0.2)	(5.7)	(4.0)
Total other expense	(47.0)	(110.4)	(70.9)	(187.9)
Net loss before income taxes	(23.6)	(14.7)	(4.3)	(109.5)
Income tax expense	0.4	0.6	0.9	1.3
Net loss	\$ (24.0)	\$ (15.3)	\$ (5.2)	\$ (110.8)
Net loss attributable to noncontrolling interest	(5.5)	—	(15.4)	—
Net income (loss) attributable to partners	\$ (18.5)	\$ (15.3)	\$ 10.2	\$ (110.8)
Allocation of net income (loss) to partners:				
Net income (loss) attributable to partners	\$ (18.5)	\$ (15.3)	\$ 10.2	\$ (110.8)
Less:				
General partners' interest in net income (loss)	(0.4)	(0.3)	0.2	(2.2)
Net income (loss) available to limited partners	\$ (18.1)	\$ (15.0)	\$ 10.0	\$ (108.6)
Weighted average limited partner units outstanding:				
Basic	80,152,648	79,424,383	79,992,637	79,241,515
Diluted	80,152,648	79,424,383	80,102,432	79,241,515
Limited partners' interest basic net income (loss) per unit:				
Limited partners' interest	\$ (0.23)	\$ (0.19)	\$ 0.13	\$ (1.37)
Limited partners' interest diluted net income (loss) per unit:				
Limited partners' interest	\$ (0.23)	\$ (0.19)	\$ 0.12	\$ (1.37)

See accompanying notes to unaudited condensed consolidated financial statements.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE
INCOME (LOSS)**

	Three Months Ended March 31,	
	2023	2022
	(In millions)	
Net income (loss)	\$ 18.8	\$ (95.5)
Other comprehensive income:		
Defined benefit pension and retiree health benefit plans	—	0.1
Total other comprehensive income	—	0.1
Comprehensive income (loss)	\$ 18.8	\$ (95.4)
Less: Comprehensive loss attributable to noncontrolling interest	(9.9)	—
Comprehensive income (loss) attributable to partners	\$ 28.7	\$ (95.4)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(In millions)			
Net loss	\$ (24.0)	\$ (15.3)	\$ (5.2)	\$ (110.8)
Other comprehensive income:				
Defined benefit pension and retiree health benefit plans	0.1	—	0.1	0.1
Total other comprehensive income	0.1	—	0.1	0.1
Comprehensive loss	\$ (23.9)	\$ (15.3)	\$ (5.1)	\$ (110.7)
Less: Comprehensive loss attributable to noncontrolling interest	(5.5)	—	(15.4)	—
Comprehensive income (loss) attributable to partners' capital (deficit)	\$ (18.4)	\$ (15.3)	\$ 10.3	\$ (110.7)

See accompanying notes to unaudited condensed consolidated financial statements.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF PARTNERS' CAPITAL
(DEFICIT)**

	Accumulated			
	Other	Partners' Capital (Deficit)		
	Comprehensive	General	Limited	Total
	Loss	Partner	Partners	
	(In millions)			
Balance at March 31, 2023	\$ (8.3)	\$ 1.1	\$ (518.9)	\$ (526.1)
Other comprehensive income	0.1	—	—	0.1
Net loss attributable to partners	—	(0.4)	(18.1)	(18.5)
Settlement of tax withholdings on equity-based incentive compensation	—	—	(1.7)	(1.7)
Settlement of phantom units	—	—	3.7	3.7
Amortization of phantom units	—	—	0.2	0.2
Adjustment to ASC 480 redemption value	—	—	(5.5)	(5.5)
Balance at June 30, 2023	\$ (8.2)	\$ 0.7	\$ (540.3)	\$ (547.8)

	Accumulated			
	Other	Partners' Capital (Deficit)		
	Comprehensive	General	Limited	
	Loss	Partner	Partners	Total
	(In millions)			
Balance at December 31, 2022	\$ (8.3)	\$ 0.5	\$ (529.9)	\$(537.7)
Other comprehensive income	0.1	—	—	0.1
Net income attributable to partners	—	0.2	10.0	10.2
Settlement of tax withholdings on equity-based incentive compensation	—	—	(9.6)	(9.6)
Settlement of phantom units	—	—	4.2	4.2
Amortization of phantom units	—	—	0.4	0.4
Adjustment to ASC 480 redemption value	—	—	(15.4)	(15.4)
Balance at June 30, 2023	\$ (8.2)	\$ 0.7	\$ (540.3)	\$(547.8)

	Accumulated			
	Other	Partners' Capital (Deficit)		
	Comprehensive	General	Limited	Total
	Loss	Partner	Partners	
	(In millions)			
Balance at March 31, 2022	\$ (10.0)	\$ 1.9	\$ (455.7)	\$(463.8)
Net loss attributable to partners	—	(0.3)	(15.0)	(15.3)
Settlement of tax withholdings on equity-based incentive compensation	—	—	(0.5)	(0.5)
Settlement of phantom units	—	—	0.4	0.4
Amortization of phantom units	—	—	1.6	1.6
Balance at June 30, 2022	\$ (10.0)	\$ 1.6	\$ (469.2)	\$(477.6)

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	Accumulated		Partners' Capital (Deficit)		
	Other		General	Limited	
	Comprehensive		Partner	Partners	Total
	Loss				
(In millions)					
Balance at December 31, 2022	\$ (8.3)	\$	0.5	\$ (529.9)	\$ (537.7)
Net income attributable to partners	—		0.6	28.1	28.7
Settlement of tax withholdings on equity-based incentive compensation	—		—	(7.9)	(7.9)
Settlement of phantom units	—		—	0.5	0.5
Amortization of phantom units	—		—	0.2	0.2
Adjustment to ASC 480 redemption value	—		—	(9.9)	(9.9)
Balance at March 31, 2023	\$ (8.3)	\$	1.1	\$ (518.9)	\$ (526.1)

	Accumulated		Partners' Capital (Deficit)		
	Other		General	Limited	
	Comprehensive		Partner	Partners	Total
	Loss				
(In millions)					
Balance at December 31, 2021	\$ (10.1)	\$	3.8	\$ (378.8)	\$ (385.1)
Other comprehensive income	0.1		—	—	0.1
Net loss attributable to partners	—		(1.9)	(93.6)	(95.5)
Settlement of tax withholdings on equity-based incentive compensation	—		—	(3.6)	(3.6)
Settlement of phantom units	—		—	6.2	6.2
Modification of phantom units	—		—	13.5	13.5
Amortization of phantom units	—		—	0.6	0.6
Balance at March 31, 2022	\$ (10.0)	\$	1.9	\$ (455.7)	\$ (463.8)

	Accumulated		Partners' Capital (Deficit)		
	Other		General	Limited	
	Comprehensive		Partner	Partners	Total
	Loss				
(In millions)					
Balance at December 31, 2021	\$ (10.1)	\$	3.8	\$ (378.8)	\$ (385.1)
Other comprehensive income	0.1		—	—	0.1
Net loss attributable to partners	—		(2.2)	(108.6)	(110.8)

Settlement of tax withholdings on equity-based incentive compensation	—	—	(4.1)	(4.1)
Settlement of phantom units	—	—	6.6	6.6
Modification of phantom units	—	—	13.5	13.5
Amortization of phantom units	—	—	2.2	2.2
Balance at June 30, 2022	\$ (10.0)	\$ 1.6	\$ (469.2)	\$ (477.6)

See accompanying notes to unaudited condensed consolidated financial statements.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	Three Months Ended March 31,	
	2023	2022
	(In millions)	
Operating activities		
Net income (loss)	\$ 18.8	\$ (95.5)
Non-cash RINs (gain) loss	(32.1)	31.1
Unrealized (gain) loss on derivative instruments	(41.0)	22.1
Other non-cash activities	67.8	0.1
Changes in assets and liabilities	(40.2)	39.3
Net cash provided by (used in) operating activities	(26.7)	(2.9)
Investing activities		
Additions to property, plant and equipment	(130.4)	(67.2)
Other investing activities	—	0.2
Net cash used in investing activities	(130.4)	(67.0)
Financing activities		
Proceeds from borrowings — revolving credit facility	559.0	265.0
Repayments of borrowings — revolving credit facility	(437.0)	(254.0)
Proceeds from borrowings — MRL revolving credit agreement	18.7	—
Proceeds from borrowings — senior notes	—	325.0
Repayments of borrowings — senior notes	—	(325.0)
Proceeds from inventory financing	388.5	434.4
Payments on inventory financing	(404.1)	(445.8)
Proceeds from other financing obligations	20.8	13.9
Payments on other financing obligations	(12.8)	(10.9)
Net cash provided by financing activities	133.1	2.6

Net decrease in cash, cash equivalents and restricted cash	(24.0)	(67.3)
Cash, cash equivalents and restricted cash at beginning of period	35.2	121.9
Cash and cash equivalents at end of period	\$ 11.2	\$ 54.6
Cash and cash equivalents	11.2	10.7
Restricted cash	—	43.9
Supplemental disclosure of non-cash investing activities		
Non-cash property, plant and equipment additions	\$ 95.1	\$ 71.3

	Six Months Ended June 30,	
	2023	2022
	(In millions)	
Operating activities		
Net loss	\$ (5.2)	\$ (110.8)
Non-cash RINs expense	23.4	114.0
Unrealized (gain) loss on derivative instruments	(55.1)	75.6
Other non-cash activities	102.2	54.1
Changes in assets and liabilities	(117.9)	(46.1)
Net cash provided by (used in) operating activities	(52.6)	86.8
Investing activities		
Additions to property, plant and equipment	(208.2)	(178.8)
Other investing activities	—	0.2
Net cash used in investing activities	(208.2)	(178.6)
Financing activities		
Proceeds from borrowings — revolving credit facility	1,084.8	650.0
Repayments of borrowings — revolving credit facility	(1,101.0)	(650.0)
Proceeds from borrowings — MRL revolving credit agreement	37.2	—
Repayments of borrowings — MRL revolving credit agreement	(18.7)	—
Proceeds from borrowings — senior notes	325.0	325.0
Repayments of borrowings — senior notes	(121.0)	(325.0)
Proceeds from inventory financing	791.2	1,008.4
Payments on inventory financing	(796.6)	(1,014.4)
Proceeds from other financing obligations	95.8	16.7
Payments on other financing obligations	(28.5)	(13.3)
Net cash provided by (used in) financing activities	268.2	(2.6)
Net increase (decrease) in cash, cash equivalents and restricted cash	7.4	(94.4)
Cash, cash equivalents and restricted cash at beginning of period	35.2	121.9
Cash, cash equivalents and restricted cash at end of period	\$ 42.6	\$ 27.5
Cash and cash equivalents	\$ 36.0	\$ 27.5
Restricted cash	\$ 6.6	\$ —
Supplemental disclosure of non-cash investing activities		
Non-cash property, plant and equipment additions	\$ 41.7	\$ 116.6

See accompanying notes to unaudited condensed consolidated financial statements.

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CALUMET SPECIALTY PRODUCTS PARTNERS, L.P.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Description of the Business

Calumet Specialty Products Partners, L.P. (the “Company” or “Calumet”) is a publicly traded Delaware limited partnership. Its common units are listed on the Nasdaq Global Select Market under the ticker symbol “CLMT.” The general partner of the Company is Calumet GP, LLC, a Delaware limited liability company. As of **March 31, 2023** **June 30, 2023**, the Company **had 79,835,801 limited** **had 79,958,262 limited** partner common units and **1,629,302 general** **1,631,801 general** partner equivalent units outstanding. The general partner owns 2% of the Company and all of the incentive distribution rights (as defined in the Company’s partnership agreement), while the remaining 98% is owned by limited partners. The general partner employs the Company’s employees and the Company reimburses the general partner for certain of its expenses.

The Company manufactures, formulates, and markets a diversified slate of specialty branded products and renewable fuels to customers in various consumer-facing and industrial markets. Calumet is headquartered in Indianapolis, Indiana and operates twelve facilities throughout North America.

The unaudited condensed consolidated financial statements of the Company as of **March 31, 2023** **June 30, 2023** and for the three **and six** months ended **March 31, 2023** **June 30, 2023** and 2022, included herein have been prepared, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”). Certain information and disclosures normally included in the consolidated financial statements prepared in accordance with generally accepted accounting principles (“GAAP”) in the U.S. have been condensed or omitted pursuant to such rules and regulations, although the Company believes that the following disclosures are adequate to make the information presented not misleading. The preparation of the unaudited condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the unaudited condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. These unaudited condensed consolidated financial statements reflect all adjustments that, in the opinion of management, are necessary to present fairly the results of operations for the interim periods presented. All adjustments are of a normal nature, unless otherwise disclosed. The results of operations for the three **and six** months ended **March 31, 2023** **June 30, 2023** are not necessarily indicative of the results that may be expected for the year ending December 31, 2023. These unaudited condensed consolidated financial statements should be read in conjunction with the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2022 (“2022 Annual Report”).

2. Summary of Significant Accounting Policies

Reclassifications

Certain amounts in the prior years' unaudited condensed consolidated financial statements have been reclassified to conform to the current year presentation.

Cash, and Cash Equivalents

and Restricted Cash and

Cash, cash equivalents and restricted cash include all highly liquid investments with a maturity of three months or less at the time of purchase.

Restricted cash represents cash that is legally restricted under the MRL Term Loan Credit Agreement, and it is included in prepaid expenses and other current assets in the condensed consolidated balance sheets because it is only available to make principal and interest payments under the terms of the agreement.

Renewable Identification Numbers ("RINs") Obligation

The Company's RINs volume obligation ("RVO" or "RINs Obligation") is an estimated provision for the future purchase of RINs in order to satisfy the U.S. Environmental Protection Agency's ("EPA") requirement to blend renewable

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fuels into certain transportation fuel products pursuant to the Renewable Fuel Standard ("RFS") of the Clean Air Act ("CAA"). A RIN is a 38-character number assigned to each physical gallon of renewable fuel produced in or imported into the United States. The EPA sets annual volume obligations for the percentage of renewable fuels that must be blended into transportation fuels consumed in the U.S. and, as a producer of transportation fuels from petroleum, the Company is subject to those obligations. Compliance is demonstrated by tendering RINs to the EPA documenting that blending has been accomplished. To the extent the Company is unable to physically blend renewable fuels to satisfy the EPA requirement, it may purchase RINs in the open market to satisfy the annual obligations.

The Company accounts for its current period RVO by multiplying the quantity of RINs shortage (based on actual results) by the period end RINs spot price, which is recorded as both a current and long-term liability in the condensed consolidated balance sheets. These liabilities are revalued at the end of each subsequent accounting period, which produce non-cash mark-to-market adjustments that are reflected in cost of sales in the unaudited condensed consolidated statements of operations (with the exception of RINs for compliance year 2019 related to the San Antonio refinery, which amount is reflected in other operating expense in the unaudited condensed consolidated statements of operations). RINs generated by blending may be sold or held to offset future RVO. Any gains or losses from RINs sales are recorded in cost of sales in the unaudited condensed consolidated

statements of operations. The liabilities associated with the Company's RVO are considered recurring fair value measurement.

The RFS provision of the CAA allows small refineries to apply at any time for a Small Refinery Exemption ("SRE") from the renewable blending requirements, and we have applied in respect of compliance years 2019, 2020, 2021 and 2022.

In September 2022, EPA finalized, and in July 2023, EPA amended, an alternative RIN retirement schedule for small refineries as set forth below:

Compliance Year		RINs Retirement Due Date
2019	Calumet carried forward its 2019 RVO into the 2020 compliance year as provided under the RFS. Calumet's 2019 RVO is now due with the 2020 RVO.	
2020	Under the Alt RIN Retirement schedule, five installments of 20% are due: February 1, 2023 May 1, 2023 August 1, 2023 November 1, 2023 February 1, 2024 However, the Fifth Circuit has granted the Shreveport refinery's motion to stay enforcement while the appeal is pending. A similar motion regarding the Montana refinery was granted by the D.C. Circuit.	
2021	March 31, 2023	
2022	December 1, 2023	

2018 RVO. In April 2022, EPA issued new decisions denying 36 petitions from small refineries seeking SREs for program year 2018 that had been remanded by the U.S. Court of Appeals for the D.C. Circuit to EPA. EPA had previously granted 31 of these 36 petitions in August 2019, including petitions from the Company. Concurrent with the April 2022 denial action, EPA provided an alternate compliance approach to allow these 31 small refineries to meet their 2018 compliance obligations without purchasing or redeeming additional RINs. In April 2022, the Company filed a petition for review of EPA's denial of the 2018 SRE petition for the Shreveport refinery in the U.S. Court of Appeals for the Fifth Circuit. In June 2022, the Company filed a petition for review of EPA's denial of the 2018 SRE petition for the Montana refinery in the U.S. Court of Appeals for the Ninth Circuit and filed a protective petition for review in the U.S. Court of Appeals for the D.C. Circuit challenging the EPA's denials of both the Shreveport and Montana refineries' petitions. Upon a motion made by EPA, the Ninth Circuit dismissed the Company's appeal of the denial of the Montana refinery's 2018 SRE petition for improper venue in favor of the D.C. Circuit appeal. EPA filed a similar motion to dismiss or transfer in the Fifth Circuit; however, the Fifth Circuit denied EPA's motion and ordered the merits panel to consider both the merits of the appeal and the venue question raised by EPA. These 2018 RVO appeals have been consolidated with the 2019-2020 RVO appeals described below.

2019-2020 RVO. In June 2022, EPA issued final decisions denying 69 pending petitions from small refineries seeking SREs for compliance years 2016 to 2021, including petitions submitted by the Company seeking exemptions for program years 2019 and 2020, based on an across-the-board determination that no small refinery suffers disproportionate economic hardship from the RFS program, a contention which was subsequently rejected by the Government Accountability Office. In September 2022, EPA finalized an alternative RIN retirement schedule for small refineries as set forth above. The alternative RIN retirement schedule allows the use of RINs generated in post-2020 compliance years to meet the 2020 RFS obligations. The Company's small refineries are eligible to use this alternative schedule. In August 2022, the Company filed a petition for review of EPA's denial of the 2019 and 2020 SRE petitions for the Shreveport refinery in the U.S. Court of Appeals for the Fifth Circuit, and a petition for review of EPA's denial of the 2019 and 2020 SRE petitions for the Montana refinery in the U.S. Court of Appeals for the Ninth Circuit. The Company again filed a protective petition for review in the U.S. Court of Appeals for the D.C. Circuit challenging both of the EPA's denials. These appeals have been consolidated with the applicable program year 2018 appeals. Upon a motion made by EPA, the Ninth Circuit transferred the Company's Montana appeal, which is now pending in the D.C. Circuit. The Fifth Circuit denied EPA's request to dismiss or transfer the appeal, ruling that merits panel will also consider EPA's argument that the Shreveport refinery appeals should be transferred to the D.C. Circuit. The Company filed motions in both appeals asking the circuit courts to stay the Company's 2019 and 2020 RFS obligations while the merits appeals are pending. In January 2023, the Fifth Circuit granted the Company's motion for stay relating to the Shreveport refinery, and in March 2023, the D.C. Circuit granted the Company's motion for stay relating to the Montana refinery. The stays granted by each of the respective circuits hold that the Company is likely to be successful on the merits of its appeals.

2021-2022 RVO. In October 2022, Calumet applied for SREs for 2021 and 2022 compliance years and is presently awaiting EPA response. years. In April 2023, the Company filed for injunctive relief in both the District Court of Montana and the Western District Court of Louisiana to force EPA to make a decision on the Montana and Shreveport refineries' joint 2021 and 2022 SRE applications.

In July 2023, EPA issued final decisions denying 26 pending petitions from small refineries seeking SREs for compliance years 2016 to 2023, including petitions submitted by the Company seeking exemptions for program years 2021 and 2022, based on the same approach and analysis described in the June 2022 denials. An effect of the denials is to make the district court actions moot, and the Company expects to file dismissals of those actions. The Company continues filed appeals of the denials with the Fifth Circuit and D.C. Circuit. The Company intends to anticipate request that the D.C. Circuit and the Fifth Circuit add the Montana and Shreveport refineries' 2021 and 2022 RFS obligations to the stays already in place.

Expenses related to RFS compliance may continue have the potential to result in remain a significant expense for the Specialty Products and Solutions and Montana/Renewables segments. If legal or regulatory changes occur that have the effect of increasing the RINs Obligation, increasing the market price of RINs, or eliminating or narrowing the availability of SREs, the Company could be required to purchase additional RINs in the open market, which may materially increase the costs related to RFS compliance and could have a material adverse effect on the results of operations and liquidity.

As of March 31, 2023 June 30, 2023 and December 31, 2022, the Company had a RINs Obligation recorded on the condensed consolidated balance sheets of \$444.7 million \$500.2 million and \$476.8 million, respectively.

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3. Revenue Recognition

The following is a description of principal activities from which the Company generates revenue. Revenues are recognized when control of the promised goods are transferred to the customer, in an amount that reflects the consideration to which the Company expects to be entitled in exchange for those goods. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods promised within each contract and determines the performance obligations and assesses whether

each promised good is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied.

Products

The Company manufactures, formulates, and markets a diversified slate of specialty branded products to customers in various consumer-facing and industrial markets. In addition, the Company produces fuel and fuel related products, including gasoline, diesel, jet fuel, asphalt, and other fuels products. At our Montana Renewables facility, we **currently process, or expect to have the future capability to** process a variety of geographically advantaged renewable feedstocks into renewable fuels, including: renewable diesel, sustainable aviation fuel ("SAF"), renewable hydrogen, renewable natural gas, renewable propane, and renewable naphtha. These renewable fuels are **or are expected to be,** distributed into renewable markets in the western half of North America. The Company also blends, packages and markets high-performance branded specialty products through its Royal Purple, Bel-Ray, and TruFuel brands.

The Company considers customer purchase orders, which in some cases are governed by master sales agreements, to be the contracts with a customer. For each contract, the Company considers the promise to transfer products, each of which are distinct, to be the identified performance obligations. In determining the transaction price, the Company evaluates whether the price is subject to variable consideration such as product returns, rebates or other discounts to determine the net consideration to which the Company expects to be entitled. The Company transfers control and recognizes revenue upon shipment to the customer or, in certain cases, upon receipt by the customer in accordance with contractual terms.

Revenue is recognized when obligations under the terms of a contract with a customer are satisfied and control of the promised goods are transferred to the customer. The contract with the customer states the final terms of the sale, including the description, quantity and price of each product or service purchased. For fuel products, payment is typically due in full between 2 to 30 days of delivery or the start of the contract term, such that payment is typically collected 2 to 30 days subsequent to the satisfaction of performance obligations. For renewable fuel products, payment is typically due in full between 7 to 14 days of delivery or the start of the contract term, such that payment is typically collected 7 to 14 days subsequent to the satisfaction of performance obligations. For specialty products, payment is typically due in full between 30 to 90 days of delivery or the start of the contract term, such that payment is typically collected 30 to 90 days subsequent to the satisfaction of performance obligations. In the normal course of business, the Company does not accept product returns unless the item is defective as manufactured. The expected costs associated with a product assurance warranty continue to be recognized as expense when products are sold. The Company does not offer promised services that could be considered warranties that are sold separately or provide a service in addition to assurance that the related product complies with agreed upon specifications. The Company establishes provisions based on the methods described in ASC 606 for estimated returns as variable consideration when determining the transaction price.

Excise and Sales Taxes

The Company assesses, collects and remits excise taxes associated with the sale of certain of its fuel products. Furthermore, the Company collects and remits sales taxes

associated with certain sales of its products to non-exempt customers. The Company excludes excise taxes and sales taxes that are collected from customers from the transaction price in its contracts with customers. Accordingly, revenue from contracts with customers is net of sales-based taxes that are collected from customers and remitted to taxing authorities.

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Shipping and Handling Costs

Shipping and handling costs are deemed to be fulfillment activities rather than a separate distinct performance obligation.

Cost of Obtaining Contracts

The Company may incur incremental costs to obtain a sales contract, which under ASC 606 should be capitalized and amortized over the life of the contract. The Company has elected to apply the practical expedient in ASC 340-40-50-5 allowing the Company to expense these costs since the contracts are short-term in nature with a contract term of one year or less.

Contract Balances

Under product sales contracts, the Company invoices customers for performance obligations that have been satisfied, at which point payment is unconditional. Accordingly, a product sales contract does not give rise to contract assets or liabilities under ASC 606. The Company's receivables, net of allowance for expected credit losses from contracts with customers as of **March 31, 2023** **June 30, 2023** and December 31, 2022 **were \$262.2 million and were \$252.8 million and \$245.7 million**, respectively.

Transaction Price Allocated to Remaining Performance Obligations

The Company's product sales are short-term in nature with a contract term of one year or less. The Company has utilized the practical expedient in ASC 606-10-50-14 exempting the Company from disclosure of the transaction price allocated to remaining performance obligations if the performance obligation is part of a contract that has an original expected duration of one year or less. Additionally, each unit of product generally represents a separate performance obligation; therefore, future volumes are wholly unsatisfied and disclosure of the transaction price allocated to remaining performance obligations is not required.

4. Inventories

The cost of inventory is recorded using the last-in, first-out ("LIFO") method. An actual valuation of inventory under the LIFO method can be made only at the end of each year

based on the inventory levels and costs at that time. Accordingly, interim LIFO calculations are based on management's estimates of expected year-end inventory levels and costs and are subject to the final year-end LIFO inventory valuation. In certain circumstances, the Company may decide not to replenish inventory for certain products or product lines during an interim period, in which case, the Company may record interim LIFO adjustments during that period. During the three and six months ended March 31, 2023 June 30, 2023 and 2022, the Company recorded no activity (exclusive of lower of cost or market ("LCM") adjustments) in cost of sales in the unaudited condensed consolidated statements due to the permanent liquidation of inventory layers.

Costs include crude oil and other feedstocks, labor, processing costs and refining overhead costs. Inventories are valued at the LCM value. The replacement cost of these inventories, based on current market values, would have been \$82.7 million \$60.1 million and \$99.9 million higher than the carrying value of inventory as of March 31, 2023 June 30, 2023 and December 31, 2022, respectively.

On March 31, 2017, June 19, 2017, and November 2, 2022, the Company sold inventory comprised of crude oil, refined products and renewable feedstocks to Macquarie Energy North America Trading Inc. ("Macquarie") under Supply and Offtake Agreements as described in Note 7 - "Inventory Financing Agreements" related to the Great Falls, Shreveport and Montana Renewables facilities, respectively.

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Inventories consist of the following (in millions):

	June 30, 2023			December 31, 2022		
	Supply and			Supply and		
	Titled	Offtake		Titled	Offtake	
	Inventory	Agreements ⁽¹⁾	Total	Inventory	Agreements ⁽¹⁾	Total
Raw materials	\$ 73.1	\$ 40.5	\$113.6	\$ 99.6	\$ 22.5	\$122.1
Work in process	69.2	56.4	125.6	62.5	95.7	158.2
Finished goods	121.6	79.1	200.7	137.3	80.4	217.7
	<u>\$ 263.9</u>	<u>\$ 176.0</u>	<u>\$439.9</u>	<u>\$ 299.4</u>	<u>\$ 198.6</u>	<u>\$498.0</u>

	March 31, 2023			December 31, 2022		
	Supply and			Supply and		
	Titled	Offtake		Titled	Offtake	
	Inventory	Agreements ⁽¹⁾	Total	Inventory	Agreements ⁽¹⁾	Total
Raw materials	\$ 78.3	\$ 20.6	\$ 98.9	\$ 99.6	\$ 22.5	\$ 122.1
Work in process	63.7	90.8	154.5	62.5	95.7	158.2
Finished goods	134.5	66.9	201.4	137.3	80.4	217.7

	\$ 276.5	\$ 178.3	\$ 454.8	\$ 299.4	\$ 198.6	\$ 498.0

(1)

Amounts represent LIFO value and do not necessarily represent the value at which the inventory was sold. Please read Note 7 - "Inventory Financing Agreements" for further information.

(1) Amounts represent LIFO value and do not necessarily represent the value at which the inventory was sold. Please read Note 7 - "Inventory Financing Agreements" for further information.

In addition, the use of the LIFO inventory method may result in increases or decreases to cost of sales in years that inventory volumes decline as the result of charging cost of sales with LIFO inventory costs generated in prior periods. In periods of rapidly declining prices, LIFO inventories may have to be written down to market value due to the higher costs assigned to LIFO layers in prior periods. During the three months ended March 31, 2023, the Company recorded an increase in cost of sales in the unaudited condensed consolidated statements of operations of \$19.7 million. During the three months ended March 31, 2022, the Company recorded a decrease in cost of sales in the unaudited condensed consolidated statements of operations of \$6.0 million, \$5.8 million and \$1.2 million, respectively. During the six months ended June 30, 2023, the Company recorded an increase in cost of sales in the unaudited condensed consolidated statements of operations of \$13.9 million. During the six months ended June 30, 2022, the Company recorded a decrease in cost of sales in the unaudited condensed consolidated statements of operations of \$7.2 million.

5. Leases

The Company has various operating and finance leases primarily for the use of land, storage tanks, railcars, equipment, precious metals and office facilities that have remaining lease terms of greater than one year to 17 years, some of which include options to extend the lease for up to 32 years, and some of which include options to terminate the lease within one year.

Supplemental balance sheet information related to the Company's leases for the periods presented were as follows (in millions):

		June 30, 2023	December 31, 2022
Assets:	Classification:		
Operating lease assets	Other noncurrent assets, net	\$ 84.0	\$ 107.5
	Property, plant and equipment,		
Finance lease assets	net (1)	2.5	2.8
Total leased assets		\$ 86.5	\$ 110.3
Liabilities:			
Current			
Operating	Other current liabilities	\$ 47.1	\$ 70.7
	Current portion of long-term		
Finance	debt	1.0	0.9
Non-current			
Operating	Other long-term liabilities	37.5	37.1
	Long-term debt, less current		
Finance	portion	2.2	2.5
Total lease liabilities		\$ 87.8	\$ 111.2

		March 31, 2023	December 31, 2022
Assets:	Classification:		
Operating lease assets	Other noncurrent assets, net	\$ 92.4	\$ 107.5
Finance lease assets	Property, plant and equipment, net ⁽¹⁾	2.6	2.8
Total leased assets		<u>\$ 95.0</u>	<u>\$ 110.3</u>
Liabilities:			
Current			
Operating	Other current liabilities	\$ 57.7	\$ 70.7
Finance	Current portion of long-term debt	0.9	0.9
Non-current			
Operating	Other long-term liabilities	35.2	37.1
Finance	Long-term debt, less current portion	2.3	2.5
Total lease liabilities		<u>\$ 96.1</u>	<u>\$ 111.2</u>

(1)

Finance lease assets are recorded net of accumulated amortization of \$4.6 million and \$4.1 million as of June 30, 2023 and December 31, 2022, respectively.

(1) Finance lease assets are recorded net of accumulated amortization of \$4.3 million and \$4.1 million as of March 31, 2023 and December 31, 2022, respectively.

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Lease expense for lease payments is recognized on a straight-line basis over the lease term. The components of lease expense related to the Company's leases for the periods presented were as follows (in millions).

Lease Costs:	Classification:	Three Months Ended June 30,		Six Months Ended June 30,	
		2023	2022	2023	2022
Fixed operating lease cost	Cost of Sales; SG&A Expenses	\$ 16.6	\$ 18.8	\$ 35.6	\$ 37.5
Short-term operating lease cost ⁽¹⁾	Cost of Sales; SG&A Expenses	2.6	1.8	4.8	3.8
Variable operating lease cost ⁽²⁾	Cost of Sales; SG&A Expenses	0.1	5.3	2.8	6.0

Finance lease cost:					
Amortization of finance lease assets	Cost of Sales	0.3	0.2	0.5	0.4
Interest on lease liabilities	Interest expense	—	0.1	0.1	1.2
Total lease cost		\$ 19.6	\$ 26.2	\$ 43.8	\$ 48.9

		Three Months Ended March 31,	
Lease Costs:	Classification:	2023	2022
Fixed operating lease cost	Cost of Sales; SG&A Expenses	\$ 19.0	\$ 18.7
Short-term operating lease cost ⁽¹⁾	Cost of Sales; SG&A Expenses	2.2	2.0
Variable operating lease cost ⁽²⁾	Cost of Sales; SG&A Expenses	2.7	0.7
Finance lease cost:			
Amortization of finance lease assets	Cost of Sales	0.2	0.2
Interest on lease liabilities	Interest expense	0.1	1.1
Total lease cost		\$ 24.2	\$ 22.7

⁽¹⁾

The Company's leases with an initial term of 12 months or less are not recorded on the condensed consolidated balance sheets.

⁽²⁾ The Company's railcar leases typically include a mileage limit the railcar can travel over the life of the lease. For any mileage incurred over this limit, the Company is obligated to pay an agreed upon dollar value for each mile that is traveled over the limit.

⁽¹⁾ The Company's leases with an initial term of 12 months or less are not recorded on the condensed consolidated balance sheets.

⁽²⁾ The Company's railcar leases typically include a mileage limit the railcar can travel over the life of the lease. For any mileage incurred over this limit, the Company is obligated to pay an agreed upon dollar value for each mile that is traveled over the limit.

As of March 31, 2023 June 30, 2023, the Company had estimated minimum commitments for the payment of rentals under leases which, at inception, had a noncancellable term of more than one year, as follows (in millions):

Maturity of Lease Liabilities	Operating	Finance	Total
	Leases ⁽¹⁾	Leases ⁽²⁾	
2023	\$ 39.8	\$ 0.6	\$ 40.4
2024	21.1	1.2	22.3
2025	14.8	0.8	15.6

2026	6.4	0.7	7.1
2027	4.3	0.2	4.5
Thereafter	7.3	0.1	7.4
Total	\$ 93.7	\$ 3.6	\$ 97.3
Less: Interest	9.1	0.4	9.5
Present value of lease liabilities	\$ 84.6	\$ 3.2	\$ 87.8
Less obligations due within one year	47.1	1.0	48.1
Long-term lease obligation	\$ 37.5	\$ 2.2	\$ 39.7

Maturity of Lease Liabilities	Operating	Finance	Total
	Leases ⁽¹⁾	Leases ⁽²⁾	
2023	\$ 56.9	\$ 0.8	\$ 57.7
2024	17.2	1.1	18.3
2025	11.9	0.8	12.7
2026	5.3	0.7	6.0
2027	3.5	0.2	3.7
Thereafter	7.2	0.1	7.3
Total	\$ 102.0	\$ 3.7	\$ 105.7
Less: Interest	9.1	0.5	9.6
Present value of lease liabilities	\$ 92.9	\$ 3.2	\$ 96.1
Less obligations due within one year	57.7	0.9	58.6
Long-term lease obligation	\$ 35.2	\$ 2.3	\$ 37.5

(1)

As of June 30, 2023, the Company's operating lease payments included no material options to extend lease terms that are reasonably certain of being exercised. The Company has no legally binding minimum lease payments for leases signed but not yet commenced as of June 30, 2023.

(2)

As of June 30, 2023, the Company's finance lease payments included no material options to extend lease terms that are reasonably certain of being exercised. The Company has no legally binding minimum lease payments for leases that have been signed but not yet commenced as of June 30, 2023.

(1) As of March 31, 2023, the Company's operating lease payments included no material options to extend lease terms that are reasonably certain of being exercised. The Company has no legally binding minimum lease payments for leases signed but not yet commenced as of March 31, 2023.

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(2) As of March 31, 2023, the Company's finance lease payments included no material options to extend lease terms that are reasonably certain of being exercised. The Company has no legally binding minimum lease payments for leases that have been signed but not yet commenced as of March 31, 2023.

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Weighted-Average Lease Term and Discount Rate

The weighted-average remaining lease term and weighted-average discount rate for the Company's operating and finance leases were as follows:

	March 31, 2023	December 31, 2022
Lease Term and Discount Rate:		
Weighted-average remaining lease term (years):		
Operating leases	2.8	2.7
Finance leases	3.7	3.9
Weighted-average discount rate:		
Operating leases	7.0 %	6.9 %
Finance leases	7.1 %	7.1 %

	June 30, 2023	December 31, 2022
Lease Term and Discount Rate:		
Weighted-average remaining lease term (years):		
Operating leases	2.9	2.7
Finance leases	3.5	3.9
Weighted-average discount rate:		
Operating leases	7.2 %	6.9 %
Finance leases	7.3 %	7.1 %

6. Commitments and Contingencies

From time to time, the Company is a party to certain claims and litigation incidental to its business, including claims made by various taxation and regulatory authorities, such as the Internal Revenue Service, the EPA and the U.S. Occupational Safety and Health Administration ("OSHA"), as well as various state environmental regulatory bodies and state and local departments of revenue, as the result of audits or reviews of the Company's business. In addition, the Company has property, business interruption, general liability and various other insurance policies that may result in certain losses or expenditures being reimbursed to the Company.

Environmental

The Company conducts specialty refining, blending and terminal operations and such activities are subject to stringent federal, regional, state and local laws and regulations governing worker health and safety, the discharge of materials into the environment and environmental protection. These laws and regulations impose obligations that are applicable to the Company's operations, such as requiring the acquisition of permits to conduct regulated activities, restricting the manner in which the Company may release materials into the environment, requiring remedial activities or capital expenditures to mitigate pollution from former or current operations, requiring the application of specific health and safety criteria addressing worker protection and imposing substantial liabilities for pollution resulting from its operations. Failure to comply with these laws and regulations may result in the assessment of sanctions, including administrative, civil and criminal penalties; the imposition of investigatory, remedial or corrective action obligations or the incurrence of capital expenditures; the occurrence of delays in the permitting, development or expansion of projects and the issuance of injunctive relief limiting or prohibiting Company activities. Moreover, certain of these laws impose joint and several, strict liability for costs required to remediate and restore sites where petroleum hydrocarbons, wastes or other materials have been released or disposed. In addition, new laws and regulations, new interpretations of existing laws and regulations, increased governmental enforcement or other developments, some of which legal requirements are discussed below, could significantly increase the Company's operational or compliance expenditures.

Remediation of subsurface contamination is in process at certain of the Company's refinery sites and is being overseen by the appropriate state agencies. Based on current investigative and remedial activities, the Company believes that the soil and groundwater contamination at these refineries can be controlled or remediated without having a material adverse effect on the Company's financial condition. However, such costs are often unpredictable and, therefore, there can be no assurance that the future costs will not become material.

Occupational Health and Safety

The Company is subject to various laws and regulations relating to occupational health and safety, including the federal Occupational Safety and Health Act, as amended, and comparable state laws. These laws and regulations strictly govern the protection of the health and safety of employees. In addition, OSHA's hazard communication standard, the EPA's community right-to-know regulations under Title III of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, and similar state statutes require the Company to maintain information about

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hazardous materials used or produced in the Company's operations and provide this information to employees, contractors, state and local government authorities and customers. The Company maintains safety and training programs as part of its ongoing efforts to promote compliance with applicable laws and regulations. The Company conducts periodic audits of process safety management systems at each of its locations subject to this standard. The Company's compliance with applicable health and safety laws and regulations has required, and continues to require, substantial expenditures. Changes in occupational safety and health laws and regulations or a finding of non-compliance with current laws and regulations could result in additional capital expenditures or operating expenses, as well as civil penalties and, in the event of a serious injury or fatality, criminal charges.

Other Matters, Claims and Legal Proceedings

The Company is subject to matters, claims and litigation incidental to its business. The Company has recorded accruals with respect to certain of its matters, claims and litigation where appropriate, that are reflected

in the unaudited condensed consolidated financial statements but are not individually considered material. For other matters, claims and litigation, the Company has not recorded accruals because it has not yet determined that a loss is probable or because the amount of loss cannot be reasonably estimated. While the ultimate outcome of matters, claims and litigation currently pending cannot be determined, the Company currently does not expect these outcomes, individually or in the aggregate (including matters for which the Company has recorded accruals), to have a material adverse effect on its financial position, results of operations or cash flows. The outcome of any matter, claim or litigation is inherently uncertain, however, and if decided adversely to the Company, or if the Company determines that settlement of particular litigation is appropriate, the Company may be subject to liability that could have a material adverse effect on its financial position, results of operations or cash flows.

Standby Letters of Credit

The Company has agreements with various financial institutions for standby letters of credit, which have been issued primarily to vendors. As of **March 31, 2023** **June 30, 2023** and December 31, 2022, the Company had outstanding standby letters of credit of **\$19.0 million** **\$15.1 million** and \$35.8 million, respectively, under its senior secured revolving credit facility (the "revolving credit facility"). Please read Note 8 - "Long-Term Debt" for additional information regarding the Company's revolving credit facility. At **March 31, 2023** **June 30, 2023** and December 31, 2022, the maximum amount of letters of credit the Company could issue under its revolving credit facility was subject to borrowing base limitations, with a maximum letter of credit sublimit equal to \$255.0 million, which may be increased with the consent of the Agent (as defined in the Credit Agreement) to 90% of revolver commitments then in effect (\$500.0 million at **March 31, 2023** **June 30, 2023** and December 31, 2022).

Throughput Contract

Prior to 2020, the Company entered into a long-term agreement to transport crude oil at a minimum of 5,000 bpd through a pipeline, which commenced service in the second quarter of 2020. The agreement also contains a capital recovery charge that increases 2% per annum. This agreement is for seven years.

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As of **March 31, 2023** **June 30, 2023**, the estimated minimum unconditional purchase commitments, including the capital recovery charge, under the agreement were as follows (in millions):

Year	Commitment
2023	\$ 1.9
2024	4.0
2025	4.0
2026	4.0
2027	2.4
Thereafter	—
Total ⁽¹⁾	\$ 16.3

Year	Commitment
2023	\$ 2.9
2024	4.0
2025	4.0
2026	4.0
2027	2.4
Thereafter	—
Total ⁽¹⁾	\$ 17.3

⁽¹⁾

As of June 30, 2023, the estimated minimum payments for the unconditional purchase commitments have been accrued and are included in other current liabilities and other long-term liabilities in the condensed consolidated balance sheets. This liability was accrued due to the fact that the contract was entered into to supply crude to a divested facility.

(1) As of March 31, 2023, the estimated minimum payments for the unconditional purchase commitments have been accrued and are included in other current liabilities and other long-term liabilities in the condensed consolidated balance sheets. This liability was accrued due to the fact that the contract was entered into to supply crude to a divested facility.

7. Inventory Financing Agreements

The Company is party to several agreements with Macquarie to support the operations of the Great Falls specialty asphalt facility, the Shreveport facility and the Montana Renewables facility (as amended, the "Supply and Offtake Agreements"). On March 20, 2023, Macquarie provided notice of Macquarie's election of its right to terminate the Great Falls specialty asphalt facility and Shreveport facility agreements, in each case effective December 31, 2023. The Montana Renewables agreement was amended on March 10, 2023 to change the expiration date to ~~September 30, 2023~~ September 30, 2023.

The Supply and Offtake Agreements allow the Company to purchase crude oil, refined products and renewable feedstocks from Macquarie or one of its affiliates. Per the Supply and Offtake Agreements, Macquarie will provide up to 30,000 barrels per day of crude oil to the Great Falls specialty asphalt facility, 60,000 barrels per day of crude oil to the Shreveport facility, and 15,000 barrels per day of renewable feedstocks to the Montana Renewables facility.

While title to certain inventories will reside with Macquarie, the Supply and Offtake Agreements are accounted for by the Company similar to a product financing arrangement; therefore, the inventories sold

to Macquarie will continue to be included in the Company's condensed consolidated balance sheets until processed and sold to a third party.

For the three months ended **March 31, 2023** **June 30, 2023** and 2022, the Company incurred an expense of **\$7.0 million** **\$7.6 million** and **\$11.5 million** **\$4.8 million**, respectively, for financing costs related to the Supply and Offtake Agreements, which are included in interest expense in the Company's unaudited condensed consolidated statements of operations.

For the six months ended **June 30, 2023** and 2022, the Company incurred an expense of **\$14.6 million** and **\$16.3 million**, respectively, for financing costs related to the Supply and Offtake Agreements, which are included in interest expense in the Company's unaudited condensed consolidated statements of operations.

The Company has provided cash collateral of **\$38.8 million related** **\$20.1 million related** to the initial purchase of the Great Falls specialty asphalt facility, Shreveport facility and Montana Renewables facility inventory to cover credit risk for future crude oil deliveries and potential liquidation risk if Macquarie exercises its rights and sells the inventory to third parties. The collateral was recorded as a reduction to the obligations.

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The Supply and Offtake Agreements also include a deferred payment arrangement ("Deferred Payment Arrangement") whereby the Company can defer payments on just-in-time crude oil purchases from Macquarie owed under the agreements up to the value of the collateral provided (up to 90% of the

collateral inventory). The deferred amounts under the Deferred Payment Arrangement bear interest at a rate equal to the Secured Overnight Financing Rate ("SOFR") plus 3.25% per annum for the Shreveport facility and both Montana facilities. Amounts outstanding under the Deferred Payment Arrangement are included in obligations under inventory financing agreements in the Company's condensed consolidated balance sheets. Changes in the amount outstanding under the Deferred Payment Arrangement are included within cash flows from financing activities in the Company's unaudited condensed consolidated statements of cash flows. As of March 31, 2023, June 30, 2023 and December 31, 2022, the Company had \$26.0 million, \$41.7 million and \$36.0 million of deferred payments outstanding, respectively. In addition to the Deferred Payment Arrangement, Macquarie advanced the Company an additional \$5.0 million, which was paid back to Macquarie by the Company in the first quarter of 2023. No amounts advanced to the Company by Macquarie remained outstanding as of March 31, 2023, June 30, 2023.

8. Long-Term Debt

Long-term debt consisted of the following (in millions):

	June 30,	December 31,
	2023	2022

Borrowings under amended and restated senior secured revolving credit agreement with third-party lenders, interest payments quarterly, borrowings due January 2027, weighted average interest rates of 6.7% and 4.7% for the six months ended June 30, 2023 and the year ended December 31, 2022, respectively. \$ 87.8 \$ 104.0

Borrowings under amended secured MRL revolving credit agreement with third-party lender, interest payments quarterly, borrowings due November 2027, weighted average interest rate of 6.8% for the six months ended June 30, 2023.	18.5	—
Borrowings under the 2024 Secured Notes, interest at a fixed rate of 9.25%, interest payments semiannually, borrowings due July 2024, effective interest rate of 9.5% for the six months ended June 30, 2023 and the year ended December 31, 2022.	179.0	200.0

Borrowings under the 2025 Notes, interest at a fixed rate of 11.0%, interest payments semiannually, borrowings due April 2025, effective interest rate of 11.4% for the six months ended June 30, 2023 and the year ended December 31, 2022.		
	413.5	513.5
Borrowings under the 2027 Notes, interest at a fixed rate of 8.125%, interest payments semiannually, borrowings due July 2027, effective interest rate of 8.3% for the six months ended June 30, 2023 and the year ended December 31, 2022.		
	325.0	325.0

Borrowings under the 2028 Notes, interest at a fixed rate of 9.75%, interest payments semiannually, borrowings due July 2028, effective interest rate of 10.2% for the six months ended June 30, 2023.	325.0	—
MRL Term Loan Credit Agreement	74.8	—
Shreveport terminal asset financing arrangement	54.5	58.2
MRL asset financing arrangements	385.1	370.1
Finance lease obligations, at various interest rates, interest and principal payments monthly through June 2028	3.2	3.4
Less unamortized debt issuance costs ⁽¹⁾	(16.3)	(12.1)
Less unamortized discounts	(3.9)	(2.4)
Total debt	\$1,846.2	\$ 1,559.7

Less current portion of long-term debt	21.9	20.0
Total long-term debt	<u>\$1,824.3</u>	<u>\$ 1,539.7</u>

	March 31, 2023	December 31, 2022
Borrowings under amended and restated senior secured revolving credit agreement with third-party lenders, interest payments quarterly, borrowings due January 2027, weighted average interest rates of 6.7% and 4.7% for the three months ended March 31, 2023 and the year ended December 31, 2022, respectively.	\$ 226.0	\$ 104.0
Borrowings under amended secured MRL revolving credit agreement with third-party lender, interest payments quarterly, borrowings due November 2027, weighted average interest rate of 6.8% for the three months ended March 31, 2023.	18.7	—

Borrowings under the 2024 Secured Notes, interest at a fixed rate of 9.25%, interest payments semiannually, borrowings due July 2024, effective interest rate of 9.5% for the three months ended March 31, 2023 and the year ended December 31, 2022.	200.0	200.0
Borrowings under the 2025 Notes, interest at a fixed rate of 11.0%, interest payments semiannually, borrowings due April 2025, effective interest rate of 11.4% for the three months ended March 31, 2023 and the year ended December 31, 2022.	513.5	513.5
Borrowings under the 2027 Notes, interest at a fixed rate of 8.125%, interest payments semiannually, borrowings due July 2027, effective interest rate of 8.3% for the three months ended March 31, 2023 and the year ended December 31, 2022.	325.0	325.0
Shreveport terminal asset financing arrangement	56.3	58.2
MRL asset financing arrangements	388.1	370.1

Finance lease obligations, at various interest rates, interest and principal payments monthly through June 2028	3.2	3.4
Less unamortized debt issuance costs ⁽¹⁾	(11.2)	(12.1)
Less unamortized discounts	(2.2)	(2.4)
Total debt	\$ 1,717.4	\$ 1,559.7
Less current portion of long-term debt	20.6	20.0
Total long-term debt	\$ 1,696.8	\$ 1,539.7

(1)

⁽¹⁾ Deferred debt issuance costs are being amortized by the effective interest rate method over the lives of the related debt instruments. These amounts are net of accumulated amortization of \$24.2 million and \$22.3 million at June 30, 2023 and December 31, 2022, respectively.

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9.75% Senior Notes due 2028 (the “2028 Notes”)

On June 27, 2023, the Company issued and sold \$325.0 million in aggregate principal amount of 2028 Notes, in a private placement pursuant to Section 4(a)(2) of the

Securities Act to eligible purchasers at par. The Company received net proceeds of \$319.1 million, after deducting the initial purchasers' discount and offering expenses, which the Company used a portion of the net proceeds to fund offers (collectively, the "Tender Offers") to purchase (i) any and all of its outstanding \$200.0 million in aggregate principal amount of 2024 Secured Notes (as defined below) and (ii) up to \$100.0 million in aggregate principal amount of its outstanding 2025 Notes (as defined below) and pay related premiums and expenses, with the remaining net proceeds to be used for general partnership purposes, including debt instruments. These amounts are net repayment. On June 28, 2023, in connection with the early settlement of accumulated amortization the Tender Offers, the Company used approximately \$125.5 million (excluding accrued and unpaid interest and related expenses) of \$23.2 million the proceeds from the offering of the 2028 Notes to fund the repurchase of (i) approximately \$21.0 million in aggregate principal amount of 2024 Secured Notes and \$22.3 million at March 31, 2023 (ii) \$100.0 million in aggregate principal amount of the 2025 Notes and December 31, 2022, respectively.

pay related premiums. Interest on the 2028 Notes is paid semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2024.

8.125% Senior Notes due 2027 (the “2027 Notes”)

On January 20, 2022, the Company issued and sold \$325.0 million in aggregate principal amount of 2027 Notes, in a private placement pursuant to Section 4(a)(2) of the Securities Act to eligible purchasers at par. The Company received net proceeds of \$319.1 million, after deducting the initial purchasers' discount and offering expenses, which the Company used, along with cash on hand, to fund the redemption of \$325.0 million aggregate principal amount of its 2023 Senior Notes at a redemption price of par, plus accrued and unpaid interest to the redemption date of February 11, 2022. In conjunction with the redemption of the 2023 Senior Notes, the Company recorded a loss from debt extinguishment of \$1.0 million, which is reflected in loss from debt extinguishment other income (expense) in the unaudited condensed consolidated statements of operations for the three six months ended March 31, 2022 June 30,

2022. Interest on the 2027 Notes is paid semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2022.

11.00% Senior Notes due 2025 (the “2025 Notes”) and 9.25% Senior Secured First Lien Notes due 2024 (the “2024 Secured Notes”)

The Company intends to redeem, at some point after July 15, 2023, approximately \$179.0 million in aggregate principal amount of 2024 Secured Notes that remain outstanding after the completion of the Tender Offer for the 2024 Secured Notes, at par, plus accrued and unpaid interest to, but not including, the redemption date. In conjunction with the repurchase of the 2024 Secured Notes and 2025 Notes in connection with the Tender Offers described above, the Company recorded a loss from debt extinguishment of \$5.2 million, which is reflected in other expense in the unaudited condensed consolidated statements of operations for the three and six months ended June 30, 2023.

Senior Notes

The 9.25% Senior 2024 Secured First Lien Notes, due 2024 (the “2024 Secured Notes”), 11.00% Senior 2025 Notes, due 2025 (the “2025 Notes”), 2027 Notes and the

2027 2028

Notes (collectively, the "Senior Notes") are subject to certain automatic customary releases, including the sale, disposition, or transfer of capital stock or substantially all of the assets of a subsidiary guarantor, designation of a subsidiary guarantor as unrestricted in accordance with the applicable indenture, exercise of legal defeasance option or covenant defeasance option, liquidation or dissolution of the subsidiary guarantor and a subsidiary guarantor ceases to both guarantee other Company debt and to be an obligor under the revolving credit facility. The Company's operating subsidiaries may not sell or otherwise dispose of all or substantially all of their properties or assets to, or consolidate with or merge into, another company if such a sale would cause a default under the indentures governing the Senior Notes.

The indentures governing the Senior Notes contain covenants that, among other things, restrict the Company's ability and the ability of certain of the Company's subsidiaries to: (i) sell assets; (ii) pay distributions on, redeem or repurchase the Company's common units or redeem or repurchase its subordinated debt; (iii) make investments; (iv) incur or guarantee additional indebtedness or

issue preferred units;
(v) create or incur certain
liens; (vi) enter into
agreements that restrict
distributions or other
payments from the
Company's restricted
subsidiaries to the
Company; (vii) consolidate,
merge or transfer all or
substantially all of the
Company's assets;
(viii) engage in transactions
with affiliates and (ix) create

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unrestricted
subsidiaries. These
covenants are subject to
important exceptions and
qualifications. At any time
when the Senior Notes are
rated investment grade by
either Moody's Investors
Service, Inc. ("Moody's") or
S&P Global Ratings ("S&P")
and no Default or Event of
Default, each as defined in
the indentures governing the
Senior Notes, has occurred
and is continuing, many of
these covenants will be
suspended. As of **March 31,**
2023 **June 30, 2023,** the
Company was in compliance
with all covenants under the
indentures governing the
Senior Notes.

***MRL Asset Financing
Arrangements***

On August 5, 2022, Montana Renewables, LLC ("MRL"), a wholly owned subsidiary of the Company, entered into Equipment Schedule No. 2 (the "Equipment Schedule") and an Interim Funding Agreement (the "Funding Agreement") with Stonebriar Commercial Finance LLC ("Stonebriar"). The Equipment Schedule and the Funding Agreement each constitute a schedule under the Master Lease Agreement (the "Lease Agreement") dated as of December 31, 2021 between MRL and Stonebriar. The Equipment Schedule provides that Stonebriar will purchase from and lease back to MRL a hydrocracker, intended to produce renewable diesel and related products, for a purchase price of \$250.0 million. The Funding Agreement provides \$100.0 million in financing for the design and construction of a feedstock pre-treater facility. The transactions with Stonebriar described in this paragraph are referred to herein as the "MRL asset financing arrangements."

Third Amended and Restated Senior Secured Revolving Credit Facility

On January 20, 2022, the Company entered into the Third Amendment to its revolving credit facility (the "Credit Facility Amendment"), which, among other changes, (a) extended the term of the revolving

credit facility for five years from the date of the Credit Facility Amendment, (b) reduced aggregate commitments under the revolving credit facility to \$500.0 million, which includes a FILO tranche, and (c) replaced LIBOR as a reference interest rate with a new reference interest rate based on SOFR.

The borrowing capacity at ~~March 31, 2023~~ June 30, 2023, under the revolving credit facility was approximately ~~\$468.0 million~~ \$441.0 million. As of ~~March 31, 2023~~ June 30, 2023, the Company had outstanding borrowings of ~~\$226.0 million~~ \$87.8 million under the revolving credit facility and outstanding standby letters of credit of ~~\$19.0 million~~ \$15.1 million, leaving approximately ~~\$223.0 million~~ \$338.1 million of unused capacity.

The revolving credit facility contains various covenants that limit, among other things, the Company's ability to: incur indebtedness; grant liens; dispose of certain assets; make certain acquisitions and investments; redeem or prepay other debt or make other restricted payments such as distributions to unitholders; enter into transactions with affiliates; and enter into a merger, consolidation or sale of

assets. Further, the revolving credit facility contains one springing financial covenant which provides that only if the Company's availability to borrow loans under the revolving credit facility falls below an amount equal to the greater of (i) 10% of the Borrowing Base (as defined in the Credit Agreement) then in effect, and (ii) \$35.0 million (which amount is subject to increase in proportion to revolving commitment increases), plus the amount of FILO loans outstanding, then the Company will be required to maintain as of the end of each fiscal quarter a Fixed Charge Coverage Ratio (as defined in the Credit Agreement) of at least 1.0 to 1.0. As of **March 31, 2023** **June 30, 2023**, the Company was in compliance with all covenants under the revolving credit facility.

***MRL Revolving
Credit Agreement***

On November 2, 2022, MRL entered into, as borrower, a Credit Agreement (the "MRL Revolving Credit Agreement") with Montana Renewables Holdings LLC ("MRHL"), the parent company of MRL, and Wells Fargo Bank, National Association ("Wells Fargo"), as administrative agent and lender, which MRL Revolving Credit Agreement provides for a secured revolving credit facility in the maximum amount of \$90.0

million outstanding, with the option to request additional commitments of up to \$15.0 million, and with a maturity date of November 2, 2027. The borrowing capacity at March 31, 2023 June 30, 2023, under the MRL Revolving Credit Agreement was approximately \$23.6 million \$45.9 million. As of March 31, 2023 June 30, 2023, MRL had outstanding borrowings of \$18.7 million \$18.5 million under the MRL Revolving Credit Agreement.

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MRL Term Loan Credit Agreement

On April 19, 2023, MRL and MRHL entered into a Credit Agreement (the "MRL Term Loan Credit Agreement") with a group of financial institutions, including I Squared Capital and Delaware Trust Company, as administrative agent, that provides for a \$75.0 million term loan facility with a maturity date of April 19, 2028 (the "Maturity Date"). The MRL Term Loan Credit Agreement provides for a variable interest rate based on the SOFR plus 6.0% to 7.3% per annum. The borrowings under the MRL Term Loan Credit

Agreement are repayable in quarterly installments commencing on June 30, 2023, in an amount equal to 0.25% of the outstanding principal amount under the MRL Term Loan Credit Agreement as of each quarterly payment date, plus additional principal payments to the extent MRL has excess cash flows, pursuant to the terms of the MRL Term Loan Credit Agreement. The remaining borrowings under the MRL Term Loan Credit Agreement are repayable on the Maturity Date.

Maturities of Long-Term Debt

As of March 31, 2023 June 30, 2023, principal payments on debt obligations and future minimum rentals on finance lease obligations are as follows (in millions):

Year	Maturity
2023	\$ 10.1
2024	202.0
2025	438.6
2026	27.6
2027	475.8
Thereafter	712.3
Total	\$1,866.4

Year	Maturity
2023	\$ 14.7
2024	222.2
2025	537.8
2026	26.9
2027	613.4
Thereafter	315.8

Total	\$1,730.8

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9. Derivatives

The Company is exposed to price risks due to fluctuations in the price of crude oil, refined products, natural gas and precious metals. The Company uses various strategies to reduce its exposure to commodity price risk. The strategies to reduce the Company's risk utilize both physical forward contracts and financially settled derivative instruments, such as swaps, collars, options and futures, to attempt to reduce the Company's exposure with respect to:

- crude oil purchases and sales;
- fuel product sales and purchases;
- natural gas purchases;
- precious metals purchases; and

- fluctuations in the value of crude oil between geographic regions and between the different types of crude oil such as New York Mercantile Exchange West Texas Intermediate ("NYMEX WTI"), Light Louisiana Sweet, Western Canadian Select ("WCS"), WTI Midland, Mixed Sweet Blend, Magellan East Houston and ICE Brent.

- crude oil purchases and sales;

- fuel product sales and purchases;

- natural gas purchases;

- precious metals purchases; and

- fluctuations in the value of crude oil between geographic regions and between the different types of crude oil such as New York Mercantile Exchange West Texas Intermediate ("NYMEX WTI"), Light

Louisiana
Sweet,
Western
Canadian
Select
("WCS"), WTI
Midland,
Mixed Sweet
Blend,
Magellan East
Houston and
ICE Brent.

The Company manages its exposure to commodity markets, credit, volumetric and liquidity risks to manage its costs and volatility of cash flows as conditions warrant or opportunities become available. These risks may be managed in a variety of ways that may include the use of derivative instruments. Derivative instruments may be used for the purpose of mitigating risks associated with an asset, liability and anticipated future transactions and the changes in fair value of the Company's derivative instruments will affect its earnings and cash flows; however, such changes should be offset by price or rate changes related to the underlying commodity or financial transaction that is part of the risk management strategy. The Company does not speculate with derivative instruments

or other contractual arrangements that are not associated with its business objectives.

Speculation is defined as increasing the Company's natural position above the maximum position of its physical assets or trading in commodities, currencies or other risk bearing assets that are not associated with the Company's business activities and objectives. The Company's positions are monitored routinely by a risk management committee to ensure compliance with its stated risk management policy and documented risk management strategies. All strategies are reviewed on an ongoing basis by the Company's risk management committee, which will add, remove or revise strategies in anticipation of changes in market conditions and/or its risk profiles. Such changes in strategies are to position the Company in relation to its risk exposures in

an attempt to capture market opportunities as they arise.

The Company is obligated to repurchase crude oil, refined products and renewable feedstocks from Macquarie at the termination of the Supply and Offtake Agreements in certain scenarios. The Company has determined that the redemption feature on the initially recognized liability related to the Supply and Offtake Agreements is an embedded derivative indexed to commodity prices. As such, the Company has accounted for these embedded derivatives at fair value with changes in the fair value, if any, recorded in Gain (loss) on derivative instruments in the Company's unaudited condensed consolidated statements of operations.

The Company recognizes all derivative instruments at their fair values (please read Note 10 - "Fair Value Measurements") as either current assets or derivative liabilities or other noncurrent assets, net or other long-term liabilities in the condensed

consolidated balance sheets. Fair value includes any premiums paid or received and unrealized gains and losses. Fair value does not include any amounts receivable from or payable to counterparties, or collateral provided to counterparties. Derivative asset and liability amounts with the same counterparty are netted against each other for financial reporting purposes in accordance with the provisions of our master netting arrangements.

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The following tables summarize the Company's gross fair values of its derivative instruments, presenting the impact of offsetting derivative assets in the Company's condensed consolidated balance sheets (in millions):



March 31, 2023

December 31, 202

		Gross Amounts			Net Amounts of Assets Presented in the Condensed Consolidated Balance Sheet			Gross Amounts Offset in the Condensed Consolidated Balance Sheet		
		Offset in the Condensed Consolidated Balance Sheets			Offset in the Condensed Consolidated Balance Sheets			Offset in the Condensed Consolidated Balance Sheets		
		Gross Amounts of Assets			Gross Amounts of Liabilities			Gross Amounts of Assets		
		Recognized			Recognized			Recognized		
		Assets			Liabilities			Assets		
Derivative instruments not designated as hedges:										
Specialty Products and Solutions segment:										
Crack spread swaps	Derivative assets / Other noncurrent assets, net	\$	39.6	\$	(32.1)	\$	7.5	\$	—	\$
Montana/Renewables segment:										
Inventory financing obligation	Obligations under inventory financing agreements		15.5		(15.5)		—		—	
Total derivative instruments		\$	55.1	\$	(47.6)	\$	7.5	\$	—	\$

Total					
derivative					
instruments	\$ 51.9	\$ (31.7)	\$ 20.2	\$ —	\$.

The following tables summarize the Company's gross fair values of its derivative instruments, presenting the impact of offsetting derivative liabilities in the Company's condensed consolidated balance sheets (in millions):

		June 30, 2023			December 31, 2023		
		Net Amounts			Net Amounts		
		Gross	of Liabilities		Gross	of Liabilities	
		Amounts	Presented in		Amounts	Presented in	
		Offset in the	the		Offset in the	the	
		Gross	Condensed	Condensed	Gross	Condensed	Condensed
	Balance Sheet	Amounts of	Consolidated	Consolidated	Amounts of	Consolidated	Consolidated
	Location	Recognized	Balance	Balance	Recognized	Balance	Balance
		Liabilities	Sheets	Sheets	Liabilities	Sheets	Sheets
Derivative instruments not designated as hedges:							
Specialty Products and Solutions segment:							
Inventory	Obligations						
financing	under						
obligation	inventory						
	financing						
	agreements	\$ (40.7)	\$ —	\$ (40.7)	\$ (38.0)	\$ —	\$.
Crack	Derivative						
spread	liabilities /						
swaps	Other long-						
	term						
	liabilities	(19.1)	19.1	—	(50.6)	19.1	19.1
Montana/Renewables segment:							
Inventory	Obligations						
financing	under						
obligation	inventory						
	financing						
	agreements	(10.8)	12.6	1.8	(15.8)	11.1	11.1

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The Company is exposed to credit risk in the event of nonperformance by its counterparties on

these derivative transactions. The Company does not expect nonperformance on any derivative instruments, however, no assurances can be provided. The Company's credit exposure related to these derivative instruments is represented by the fair value of contracts reported as derivative assets. To manage credit risk, the Company selects and periodically reviews counterparties based on credit ratings. The Company primarily executes its derivative instruments with large financial institutions that have ratings of at least A3 and BBB+ by Moody's and S&P, respectively. In the event of default, the Company would potentially be subject to losses on derivative instruments with mark-to-market gains. The Company requires collateral

from its counterparties when the fair value of the derivatives exceeds agreed-upon thresholds in its master derivative contracts with these counterparties.

No such collateral was held by the Company as of March 31, 2023 June 30, 2023 or December 31, 2022. Collateral received from counterparties is reported in other current liabilities, and collateral held by counterparties is reported in prepaid expenses and other current assets on the Company's condensed consolidated balance sheets and is not netted against derivative assets or liabilities. Any outstanding collateral is released to the Company upon settlement of the related derivative instrument liability. As of March 31, 2023 June 30, 2023 and

December 31, 2022, the Company was not required to provide collateral to its counterparties.

Certain of the Company's outstanding derivative instruments are subject to credit support agreements with the applicable counterparties which contain provisions setting certain credit thresholds above which the Company may be required to post agreed-upon collateral, such as cash or letters of credit, with the counterparty to the extent that the Company's mark-to-market net liability, if any, on all outstanding derivatives exceeds the credit threshold amount per such credit support agreement. The majority of the credit support agreements covering the Company's outstanding derivative instruments also contain a general

provision stating that if the Company experiences a material adverse change in its business, in the reasonable discretion of the counterparty, the Company's credit threshold could be lowered by such counterparty. The Company does not expect that it will experience a material adverse change in its business.

The cash flow impact of the Company's derivative activities are included within cash flows from operating activities in the unaudited condensed consolidated statements of cash flows.

***Derivative
Instruments Not
Designated as
Hedges***

For derivative instruments not designated as hedges, the change in fair value of the asset or liability for the period is recorded to Gain (loss) on

derivative
instruments in the
unaudited
condensed
consolidated
statements of
operations. Upon
the settlement of
a derivative not
designated as a
hedge, the gain or
loss at settlement
is recorded to
Gain (loss) on
derivative
instruments in the
unaudited
condensed
consolidated
statements of
operations. The
Company has
entered into crack
spread swaps
and crude oil
swaps that do not
qualify as cash
flow hedges for
accounting
purposes.
However, these
instruments
provide economic
hedges of the
purchases and
sales of the
Company's crude
oil and refined
products.

The
Company
recorded the
following gains
(losses) in its
unaudited

condensed consolidated statements of operations for the three months ended March 31, 2023 June 30, 2023 and 2022, related to its derivative instruments not designated as hedges (in millions):

Type of Derivative	Amount of Realized Gain (Loss)				Amount of Unrealized Gain (Loss)			
	Recognized in Gain (Loss) on				Recognized in Gain (Loss) on		Derivative	
	Derivative				Recognized in Gain (Loss) on		Derivative	
	Instruments				Instruments			
	Three Months Ended June 30,				Three Months Ended June 30,			
	2023	2022			2023		2022	
Specialty Products and Solutions segment:								
Inventory financing obligation	\$ —	\$ —	\$	1.3	\$	(10.9)		
Crack spread swaps	0.2	(13.3)		12.7		(42.9)		
Crude oil swaps	—	(0.8)		—		0.3		
Montana/Renewables segment:								
Inventory financing obligation	—	—		0.1		—		
Total	\$ 0.2	\$ (14.1)	\$	14.1	\$	(53.5)		

Type of Derivative	Amount of Realized Loss		Amount of Unrealized Gain (Loss) Recognized	
	Recognized in Gain (Loss) on		in Gain (Loss) on	
	Derivative Instruments		Derivative Instruments	
	Three Months Ended		Three Months Ended	
	March 31,		March 31,	
	2023	2022	2023	2022
Specialty Products and Solutions segment:				
Inventory financing obligation	\$ —	\$ —	\$ (4.0)	\$ (14.7)
Crack spread swaps	(15.5)	—	38.8	(1.8)
Crude oil swaps	—	—	—	(1.1)

Montana/Renewables segment:				
Inventory financing obligation	—	—	6.2	(4.5)
Total	\$ (15.5)	\$ —	\$ 41.0	\$ (22.1)

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The Company recorded the following gains (losses) in its unaudited condensed consolidated statements of operations for the six months ended June 30, 2023 and 2022, related to its derivative instruments not designated as hedges (in millions):

Type of Derivative	Amount of Realized		Amount of Unrealized Gain (Loss)	
	Loss Recognized in Gain (Loss) on		Recognized in Gain (Loss) on Derivative	
	Derivative		Instruments	
	Instruments		Instruments	
	Six Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Specialty Products and Solutions segment:				
Inventory financing obligation	\$ —	\$ —	\$ (2.7)	\$ (25.6)
Crack spread swaps	(15.3)	(13.3)	51.5	(45.5)
Crude oil swaps	—	(0.8)	—	—
Montana/Renewables segment:				

Inventory financing obligation	—	—	6.3	(4.5)
Total	\$ (15.3)	\$ (14.1)	\$ 55.1	\$ (75.6)

**Derivative
Positions**

At March 31, 2023 June 30, 2023, the Company had the following notional contract volumes related to outstanding derivative instruments:

	Notional Contract Volumes by Year of Maturity		
	Total		
	Outstanding Notional	2023	Unit of Measure
Derivative instruments not designated as hedges:			
Crack spread swaps - sales	5,500,000	5,500,000	Barrels

	Notional Contract Volumes by Year of Maturity		
	Total		
	Outstanding Notional	2024	Unit of Measure
Derivative instruments not designated as hedges:			
Crack spread swaps - sales	2,928,000	2,928,000	Barrels

	Notional Contract Volumes by Year of Maturity		
	Total		
	Outstanding Notional	2023	Unit of Measure

Derivative instruments not designated as hedges:			
Crack spread swaps	-		
sales	3,680,000	3,680,000	Barrels

	Notional Contract Volumes by Year of Maturity		
	Total		
	Outstanding		
	Notional	2024	Unit of Measure
Derivative instruments not designated as hedges:			
Crack spread swaps	-		
sales	2,928,000	2,928,000	Barrels

10. Fair Value Measurements

In accordance with ASC 820, the Company uses a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. Observable inputs are from sources independent of the Company. Unobservable inputs reflect the Company's assumptions about the factors

market participants would use in valuing the asset or liability developed based upon the best information available in the circumstances. These tiers include the following:

- Level 1
 - inputs include observable unadjusted quoted prices in active markets for identical assets or liabilities
- Level 2
 - inputs include other than quoted prices in active markets that are either directly or indirectly observable
- Level 3
 - inputs include unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions

- Level 1 — inputs include observable unadjusted quoted prices in active markets for identical assets or liabilities
- Level 2 — inputs include other than quoted prices in active markets that are either directly or indirectly observable
- Level 3 — inputs include unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions

In determining fair value, the Company uses various valuation techniques and prioritizes the use

of observable inputs. The availability of observable inputs varies from instrument to instrument and depends on a variety of factors including the type of instrument, whether the instrument is actively traded and other characteristics particular to the instrument. For

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many financial instruments, pricing inputs are readily observable in the market, the valuation methodology used is widely accepted by market participants and the valuation does not require significant management judgment. For other financial instruments, pricing inputs are less observable in the marketplace

and may require management judgment.

***Recurring
Fair Value
Measurements***

**Derivative
Assets and
Liabilities**

Derivative instruments are reported in the accompanying unaudited condensed consolidated financial statements at fair value. The Company's derivative instruments consist of over-the-counter contracts, which are not traded on a public exchange. Substantially all of the Company's derivative instruments are with counterparties that have long-term credit ratings of at least A3 and BBB+ by Moody's and S&P, respectively.

Commodity derivative instruments are measured at fair value using a market approach. To estimate the

fair values of the Company's commodity derivative instruments, the Company uses the forward rate, the strike price, contractual notional amounts, the risk-free rate of return and contract maturity. Various analytical tests are performed to validate the counterparty data. The fair values of the Company's derivative instruments are adjusted for nonperformance risk and creditworthiness of the counterparty through the Company's credit valuation adjustment ("CVA"). The CVA is calculated at the counterparty level utilizing the fair value exposure at each payment date and applying a weighted probability of the appropriate survival and marginal default percentages. The Company uses the counterparty's marginal default

rate and the Company's survival rate when the Company is in a net asset position at the payment date and uses the Company's marginal default rate and the counterparty's survival rate when the Company is in a net liability position at the payment date. As a result of applying the applicable CVA at March 31, 2023 June 30, 2023 and December 31, 2022, the Company's net assets and net liabilities changed, in each case, by an immaterial amount.

Observable inputs utilized to estimate the fair values of the Company's derivative instruments were based primarily on inputs that are readily available in public markets or can be derived from information available in publicly quoted markets. Based on the use of

various unobservable inputs, principally non-performance risk, creditworthiness of the counterparties and unobservable inputs in the forward rate, the Company has categorized these derivative instruments as Level 3. Significant increases (decreases) in any of those unobservable inputs in isolation would result in a significantly lower (higher) fair value measurement. The Company believes it has obtained the most accurate information available for the types of derivative instruments it holds. Please read Note 9 - "Derivatives" for further information on derivative instruments.

Pension Assets

Pension assets are reported at fair value in the accompanying unaudited

condensed consolidated financial statements. At March 31, 2023 June 30, 2023 and December 31, 2022, the Company's investments associated with its pension plan consisted of (i) cash and cash equivalents, (ii) fixed income bond funds, (iii) mutual equity funds, and (iv) mutual balanced funds. The fixed income bond funds, mutual equity funds, and mutual balanced funds are measured at fair value using a market approach based on quoted prices from national securities exchanges and are categorized in Level 1 of the fair value hierarchy.

Liability

Awards

Unit-based compensation liability awards are awards that are currently expected to be settled in cash on their vesting dates, rather than in equity units

("Liability Awards"). The Liability Awards are categorized as Level 1 because the fair value of the Liability Awards is based on the Company's quoted closing unit price as of each balance sheet date.

**Renewable
Identification
Numbers
Obligation**

The Company's RINs Obligation is categorized as Level 2 and is measured at fair value using the market approach based on prices obtained from an independent pricing service. Please read Note 2 - "Summary of Significant Accounting Policies" for further information on the Company's RINs Obligation.

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**Precious
Metals
Obligations**

The fair value of precious metals obligations is based upon unadjusted exchange-quoted prices and is, therefore, classified within Level 1 of the fair value hierarchy.

**Hierarchy of
Recurring Fair
Value
Measurements**

The Company's recurring assets and liabilities measured at fair value were as follows (in millions):

	March 31, 2023				December 31, 2022			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Assets:								
Derivative assets:								
Crack spread swaps	\$ —	\$ —	\$ 7.5	\$ 7.5	\$ —	\$ —	\$ —	\$ —
Total derivative assets	\$ —	\$ —	\$ 7.5	\$ 7.5	\$ —	\$ —	\$ —	\$ —
Pension plan investments	\$ 27.3	\$ —	\$ —	\$ 27.3	\$ 26.4	\$ —	\$ —	\$ 26.4
Total recurring assets at fair value	\$ 27.3	\$ —	\$ 7.5	\$ 34.8	\$ 26.4	\$ —	\$ —	\$ 26.4

Liabilities:									
Derivative liabilities:									
Inventory financing obligation	\$ —	\$ —	\$ (40.3)	\$ (40.3)	\$ —	\$ —	\$ (42.5)	\$ (42.5)	
Crack spread swaps	—	—	—	—	—	—	(31.3)	(31.3)	
Total derivative liabilities	\$ —	\$ —	\$ (40.3)	\$ (40.3)	\$ —	\$ —	\$ (73.8)	\$ (73.8)	
RINs obligation	—	(444.7)	—	(444.7)	—	(476.8)	—	(476.8)	
Precious metals obligations	(7.0)	—	—	(7.0)	(7.5)	—	—	(7.5)	
Liability awards	(61.5)	—	—	(61.5)	(52.9)	—	—	(52.9)	
Total recurring liabilities at fair value	\$ (68.5)	\$ (444.7)	\$ (40.3)	\$ (553.5)	\$ (60.4)	\$ (476.8)	\$ (73.8)	\$ (611.0)	

	June 30, 2023				December 31, 2022			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Assets:								
Derivative assets:								
Crack spread swaps	\$ —	\$ —	\$ 20.2	\$ 20.2	\$ —	\$ —	\$ —	\$ —
Total derivative assets	\$ —	\$ —	\$ 20.2	\$ 20.2	\$ —	\$ —	\$ —	\$ —
Pension plan investments	\$ 27.0	\$ —	\$ —	\$ 27.0	\$ 26.4	\$ —	\$ —	\$ 26.4
Total recurring assets at fair value	\$ 27.0	\$ —	\$ 20.2	\$ 47.2	\$ 26.4	\$ —	\$ —	\$ 26.4
Liabilities:								
Derivative liabilities:								
Inventory financing obligation	\$ —	\$ —	\$ (38.9)	\$ (38.9)	\$ —	\$ —	\$ (42.5)	\$ (42.5)
Crack spread swaps	—	—	—	—	—	—	(31.3)	(31.3)

Total									
derivative									
liabilities	\$ —	\$ —	\$(38.9)	\$ (38.9)	\$ —	\$ —	\$(73.8)	\$ (73.8)	
RINs									
obligation	—	(500.2)	—	(500.2)	—	(476.8)	—	(476.8)	
Precious									
metals									
obligations	(6.3)	—	—	(6.3)	(7.5)	—	—	(7.5)	
Liability									
awards	(53.0)	—	—	(53.0)	(52.9)	—	—	(52.9)	
Total									
recurring									
liabilities at									
fair value	<u>\$ (59.3)</u>	<u>\$ (500.2)</u>	<u>\$ (38.9)</u>	<u>\$ (598.4)</u>	<u>\$ (60.4)</u>	<u>\$ (476.8)</u>	<u>\$ (73.8)</u>	<u>\$ (611.0)</u>	

The table below sets forth a summary of net changes in fair value of the Company's Level 3 financial assets and liabilities (in millions):

	Three Months Ended March 31,	
	2023	2022
Fair value at January 1,	\$ (73.8)	\$ (27.9)
Realized loss on derivative instruments	(15.5)	—
Unrealized gain (loss) on derivative instruments	41.0	(22.1)
Settlements	15.5	—
Fair value at March 31,	<u>\$ (32.8)</u>	<u>\$ (50.0)</u>

Total gain		
(loss)		
included in		
net loss		
attributable		
to changes		
in		
unrealized		
gain (loss)		
relating to		
financial		
assets and		
liabilities		
held as of		
March 31,	\$ 41.0	\$(22.1)

	<i>Six Months Ended June 30,</i>	
	<i>2023</i>	<i>2022</i>
Fair value		
at January		
1,	\$ (73.8)	\$ (27.9)
Realized		
loss on		
derivative		
instruments	(15.3)	(14.1)
Unrealized		
gain (loss)		
on		
derivative		
instruments	55.1	(75.6)
Settlements	15.3	14.1
Fair value		
at June 30,	\$ (18.7)	\$ (103.5)
Total gain		
(loss)		
included in		
net loss		
attributable		
to changes		
in		
unrealized		
gain (loss)		
relating to		
financial		
assets and		
liabilities		
held as of		
June 30,	\$ 55.1	\$ (75.6)

Nonrecurring
Fair Value
Measurements

Certain non-financial assets and liabilities are measured at fair value on a nonrecurring basis and are subject to fair value adjustments in certain circumstances, such as when there is evidence of impairment.

The Company assesses goodwill for impairment annually and whenever events or changes in circumstances indicate its carrying value may not be recoverable. The fair value of the reporting units is determined using the income approach. The income approach focuses on the income-producing capability of an asset, measuring the current value of the asset by calculating the present value of its future economic benefits such as cash earnings, cost savings, corporate tax structure and product offerings. Value indications

are developed by discounting expected cash flows to their present value at a rate of return that incorporates the risk-free rate for the use of funds, the expected rate of inflation and risks associated with the reporting unit. These assets would generally be classified within Level 3, in the event that the Company were required to measure and record such assets at fair value within its unaudited condensed consolidated financial statements.

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The Company periodically evaluates the carrying value of long-lived assets to be held and used, including definite-lived intangible assets and property,

plant and equipment, when events or circumstances warrant such a review. Fair value is determined primarily using anticipated cash flows assumed by a market participant discounted at a rate commensurate with the risk involved and these assets would generally be classified within Level 3, in the event that the Company was required to measure and record such assets at fair value within its unaudited condensed consolidated financial statements.

***Estimated
Fair Value of
Financial
Instruments***

**Cash, and
cash equivalents**

**and restricted
cash**

The carrying value of cash, and cash equivalents and restricted cash are each considered to be

representative of
their fair value.

Debt

The
estimated fair
value of long-term
debt at March 31,
2023 June 30,
2023 and
December 31,
2022, consists
primarily of senior
notes. The
estimated fair
value of the
Company's 2024
Secured
Notes and 2025,
2027 and
2027 2028 Senior
Notes defined as
Level 2 was
based upon
quoted prices for
identical or similar
liabilities in
markets that are
not active. The
carrying value of
borrowings, if any,
under the
Company's
revolving credit
facility, MRL
revolving credit
agreement, MRL
asset financing
arrangements,
MRL term loan
credit agreement,
finance lease
obligations and
other obligations
are classified as
Level 3. Please

read Note 8 -
“Long-Term Debt”
for further
information on
long-term debt.

The
Company’s
carrying value
and estimated fair
value of the
Company’s
financial
instruments,
carried at
adjusted historical
cost, were as
follows (in
millions):

	Level	June 30, 2023		December 31, 2022	
		Fair Value	Carrying Value	Fair Value	Carrying Value
Financial Instrument:					
2024 Secured Notes, 2025 Notes, 2027 Notes, and 2028 Notes	2	\$ 1,239.5	\$ 1,230.5	\$ 1,045.2	\$ 1,030.0
Revolving credit facility	3	\$ 87.8	\$ 85.1	\$ 104.0	\$ 100.9
MRL revolving credit agreement	3	\$ 18.5	\$ 18.0	\$ —	\$ (0.6)
MRL term loan credit agreement	3	\$ 74.8	\$ 71.8	\$ —	\$ —
Shreveport terminal asset financing arrangement	3	\$ 54.5	\$ 53.7	\$ 58.2	\$ 57.2
MRL asset financing arrangements	3	\$ 385.1	\$ 383.9	\$ 370.1	\$ 368.8
Finance leases and other obligations	3	\$ 3.2	\$ 3.2	\$ 3.4	\$ 3.4

	Level	March 31, 2023		December 31, 2022	
		Fair Value	Carrying Value	Fair Value	Carrying Value
Financial Instrument:					
2024 Secured Notes, 2025 Notes, and 2027 Notes	2	\$ 1,043.3	\$ 1,030.6	\$ 1,045.2	\$ 1,030.0
Revolving credit facility	3	\$ 226.0	\$ 223.1	\$ 104.0	\$ 100.9
MRL revolving credit agreement	3	\$ 18.7	\$ 18.1	\$ —	\$ (0.6)
Shreveport terminal asset financing arrangement	3	\$ 56.3	\$ 55.5	\$ 58.2	\$ 57.2
MRL asset financing arrangements	3	\$ 388.1	\$ 386.9	\$ 370.1	\$ 368.8
Finance leases and other obligations	3	\$ 3.2	\$ 3.2	\$ 3.4	\$ 3.4

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11. Earnings Per Unit

The following table sets forth the computation of basic and diluted earnings per limited partner unit (in millions,

except unit
and per unit
data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Numerator for basic and diluted earnings per limited partner unit:				
Net loss	\$ (24.0)	\$ (15.3)	\$ (5.2)	\$ (110.8)
Net loss attributable to noncontrolling interest	(5.5)	—	(15.4)	—
Net income (loss) attributable to partners	\$ (18.5)	\$ (15.3)	\$ 10.2	\$ (110.8)
Less:				
General partner's interest in net income (loss)	(0.4)	(0.3)	0.2	(2.2)
Net income (loss) attributable to limited partners	\$ (18.1)	\$ (15.0)	\$ 10.0	\$ (108.6)
Denominator for earnings per limited partner unit:				
Basic weighted average limited partner units outstanding	80,152,648	79,424,383	79,992,637	79,241,515
Effect of dilutive securities:				
Incremental units	—	—	109,795	—
Diluted weighted average limited partner units outstanding (1)	80,152,648	79,424,383	80,102,432	79,241,515

Limited partners' interest basic net income (loss) per unit:				
Limited partners' interest	\$	(0.23)	\$	(0.19)
Limited partners' interest	\$	0.13	\$	(1.37)
Limited partners' interest diluted net income (loss) per unit:				
Limited partners' interest	\$	(0.23)	\$	(0.19)
Limited partners' interest	\$	0.12	\$	(1.37)

Three Months Ended March 31,			
	2023	2022	
Numerator for basic and diluted earnings per limited partner unit:			
Net income (loss)	\$ 18.8	\$ (95.5)	
Net loss attributable to noncontrolling interest	(9.9)	—	
Net income (loss) attributable to partners	\$ 28.7	\$ (95.5)	
Less:			
General partner's interest in net income (loss)	0.6	(1.9)	
Net income (loss) attributable to limited partners	\$ 28.1	\$ (93.6)	
Denominator for earnings per limited partner unit:			
Basic weighted average limited partner units outstanding	79,830,671	79,074,630	
Effect of dilutive securities:			
Incremental units	109,314	—	

Diluted weighted average limited partner units outstanding ⁽¹⁾	79,939,985	79,074,630
Limited partners' interest basic net income (loss) per unit:		
Limited partners' interest	\$ 0.35	\$ (1.18)
Limited partners' interest diluted net income (loss) per unit:		
Limited partners' interest	\$ 0.35	\$ (1.18)

(1) Total diluted weighted average limited partner units outstanding excludes a de-minimis amount of potentially dilutive phantom units which would have been anti-dilutive for the three months ended June 30, 2023 and 2022 and for the six months ended June 30, 2022.

(1) Total diluted weighted average limited partner units outstanding excludes a de-minimis amount of potentially dilutive

phantom
units
which
would
have
been
anti-
dilutive
for
the
three
months
ended
March
31,
2022.

12.

Segments and Related Information

Segment Reporting

The
Company
determines its
reportable
segments
based on how
the business
is managed
internally for
the products
sold to
customers,
including how
results are
reviewed and
resources are
allocated by
the chief
operating
decision
maker
("CODM").

The
Company's
operations are
managed by
the CODM
using the
following

reportable

segments:

- *Specialty Products and Solutions.* The Specialty Products and Solutions segment consists of our customer-focused solutions and formulations businesses, covering multiple specialty product lines, anchored by our unique integrated complex in Northwest Louisiana. In this segment, we manufacture and market a wide variety of solvents, waxes, customized lubricating oils, white oils, petrolatums, gels, esters, and other products. Our

specialty
products
are
sold
to
domestic
and
international
customers
who
purchase
them
primarily
as
raw
material
components
for
consumer-
facing
and
industrial
products.

- *Montana/Renewables.*
The
Montana/Renewables
segment
is
composed
of our
Great
Falls
specialty
asphalt
facility
and
our
Montana
Renewables
facility.
At
our
Montana
Renewables
facility,
we
process
a
variety
of
geographically
advantaged
renewable
feedstocks
into
renewable
diesel,
sustainable
aviation
fuel,

renewable
hydrogen,
renewable
natural
gas,
renewable
propane,
and
renewable
naphtha
that
are
distributed
into
renewable
markets
in the
western
half
of
North
America.
At
our
Montana
specialty
asphalt
facility,
we
process
Canadian
crude
oil
into
conventional
gasoline,
diesel,
jet
fuel
and
specialty
grades
of
asphalt,
with
production
sized
to
serve
local
markets.

▪ *Specialty
Products and
Solutions.* The
Specialty
Products and
Solutions
segment
consists of
our customer-

focused solutions and formulations businesses, covering multiple specialty product lines, anchored by our unique integrated complex in Northwest Louisiana. In this segment, we manufacture and market a wide variety of solvents, waxes, customized lubricating oils, white oils, petrolatums, gels, esters, and other products. Our specialty products are sold to domestic and international customers who purchase them primarily as raw material components for consumer-facing and industrial products.

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- *Montana/Renewables.* The Montana/Renewables segment is composed of our Great Falls specialty asphalt facility

and
our
Montana
Renewables
facility.
When
our
Montana
Renewables
facility
is fully
operational,
we
will
process
a
variety
of
geographically
advantaged
renewable
feedstocks
into
renewable
diesel,
sustainable
aviation
fuel,
renewable
hydrogen,
renewable
natural
gas,
renewable
propane,
and
renewable
naphtha
that
we
expect
to
distribute
into
renewable
markets
in the
western
half of
North
America.
At our
Montana
specialty
asphalt
facility,
we
process
Canadian
crude
oil

into
conventional
gasoline,
diesel,
jet
fuel
and
specialty
grades
of
asphalt,
with
production
sized
to
serve
local
markets.

- *Performance Brands.*

The
Performance
Brands
segment
includes
our
fast-
growing
portfolio
of
high-
quality,
high-
performing
brands.
In this
segment,
we
blend,
package,
and
market
high
performance
products
through
our
Royal
Purple,
Bel-
Ray,
and
TruFuel
brands.

- *Corporate.*
TheCorporate
segment
primarily
consists
of

general
and
administrative
expenses
not
allocated
to the
Montana/Renewables,
Specialty
Products
and
Solutions,
or
Performance
Brands
segments.

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- *Performance Brands.*
The Performance Brands segment includes our fast-growing portfolio of high-quality, high-performing brands. In this segment, we blend, package, and market high performance products through our Royal Purple, Bel-Ray, and TruFuel brands.

- *Corporate.*
The
Corporate
segment
primarily
consists
of
general
and
administrative
expenses
not
allocated
to
the
Montana/Renewables,
Specialty
Products
and
Solutions,
or
Performance
Brands
segments.

The
accounting
policies of
the
reporting
segments
are the
same as
those
described
in the
summary
of
significant
accounting
policies as
disclosed
in Note 3 -
"Summary
of
Significant
Accounting
Policies,"
of the 2022
Annual
Report,
except that
the
disaggregated

financial
results for
the
reporting
segments
have been
prepared
using a
management
approach,
which is
consistent
with the
basis and
manner in
which
management
internally
disaggregates
financial
information
for the
purposes
of assisting
internal
operating
decisions.
The
Company
accounts
for inter-
segment
sales and
transfers
using
market-
based
transfer
pricing.
The
Company
will
periodically
refine its
expense
allocation
methodology
for its
segment
reporting

as more
specific
information
becomes
available
and the
industry or
market
changes.
The
Company
evaluates
performance
based
upon
Adjusted
EBITDA (a
non-GAAP
financial
measure).
The
Company
defines
Adjusted
EBITDA for
any period
as EBITDA
adjusted
for
(a) impairment;
(b) unrealized
gains and
losses
from mark-
to-market
accounting
for hedging
activities;
(c) realized
gains and
losses
under
derivative
instruments
excluded
from the
determination
of net
income
(loss)

attributable
to partners;
(d) non-
cash
equity-
based
compensation
expense
and other
non-cash
items
(excluding
items such
as accruals
of cash
expenses
in a future
period or
amortization
of a
prepaid
cash
expense)
that were
deducted
in
computing
net income
(loss)
attributable
to partners;
(e) debt
refinancing
fees,
extinguishment
costs,
premiums
and
penalties;
(f) any net
gain or
loss
realized in
connection
with an
asset sale
that was
deducted
in
computing

net income
(loss)
attributable
to partners;
(g) amortization
of
turnaround
costs;
(h) LCM
inventory
adjustments;
(i) the
impact of
liquidation
of
inventory
layers
calculated
using the
LIFO
method;
(j) RINs
mark-to-
market
adjustments;
and (k) all
extraordinary,
unusual or
non-
recurring
items of
gain or
loss, or
revenue or
expense.

Reportable
segment
information
for the
three and
six months
ended
March 31,
2023 June
30, 2023
and 2022,
is as
follows (in
millions):

Three Months Ended 30, 2023	Months June	Specialty					Consolidated
		Products and Solutions (1)	Performance Brands	Montana/Renewables	Corporate	Eliminations	
Sales:							
External customers		\$ 684.1	\$ 85.5	\$ 248.2	\$ —	\$ —	\$ 1.0
Inter-segment sales		5.2	0.1	—	—	(5.3)	
Total sales		<u>\$ 689.3</u>	<u>\$ 85.6</u>	<u>\$ 248.2</u>	<u>\$ —</u>	<u>\$ (5.3)</u>	<u>\$ 1.0</u>
Adjusted EBITDA		\$ 61.0	\$ 12.2	\$ 12.6	\$ (18.1)	\$ —	\$
Reconciling items to net loss attributable to partners:							
Depreciation and amortization		19.3	2.4	20.9	0.2	—	
LCM / LIFO (gain) loss		1.5	0.6	(7.9)	—	—	
Interest expense		6.8	0.1	17.5	31.4	—	
Debt extinguishment costs		—	—	—	5.2	—	
Unrealized gain on derivatives		(14.0)	—	(0.1)	—	—	(
RINs mark-to-market loss		2.2	—	1.4	—	—	
Other non-recurring expenses							
Equity-based compensation and other items							
Income tax expense							
Noncontrolling interest adjustments							
Net loss attributable to partners							<u>\$ (</u>

Capital expenditures	\$	18.5	\$	0.3	\$	64.7	\$	0.2	\$	—	\$	
PP&E, net	\$	379.9	\$	33.4	\$	1,120.9	\$	2.2	\$	—	\$	1.5

Three Months Ended March 31, 2023	Specialty Products and					
	Solutions (1)	Performance Brands (2)	Montana/Renewables (3)	Corporate	Eliminations	
Sales:						
External customers	\$ 738.7	\$ 78.8	\$ 219.4	\$ —	\$ —	.
Inter-segment sales	5.4	—	—	—	(5)	
Total sales	<u>\$ 744.1</u>	<u>\$ 78.8</u>	<u>\$ 219.4</u>	<u>\$ —</u>	<u>\$ (5)</u>	
Adjusted EBITDA	\$ 76.4	\$ 16.4	\$ 4.8	\$ (19.9)	\$ —	.
Reconciling items to net income attributable to partners:						
Depreciation and amortization	15.9	2.5	18.5	0.3	—	.
LCM / LIFO loss	1.2	1.5	17.0	—	—	.
Interest expense	6.5	—	12.4	30.3	—	.
Unrealized gain on derivatives	(34.8)	—	(6.2)	—	—	.
RINs mark-to-market gain	(30.8)	—	(15.3)	—	—	.
Other non-recurring expenses						
Equity-based compensation and other items						
Income tax expense						
Noncontrolling interest adjustments						
Net income attributable to partners						
Capital expenditures	\$ 21.5	\$ 0.7	\$ 115.2	\$ 0.1	\$ —	.
PP&E, net	\$ 380.3	\$ 33.7	\$ 1,126.6	\$ 2.6	\$ —	.

Three months ended March 31, 2022	Specialty Products and Solutions	Performance Brands	Montana/Renewables	Corporate	Eliminations
Sales:					
External customers	\$ 769.4	\$ 73.2	\$ 255.3	\$ —	\$ —
Inter-segment sales	5.6	—	—	—	(0.6)
Total sales	<u>\$ 775.0</u>	<u>\$ 73.2</u>	<u>\$ 255.3</u>	<u>\$ —</u>	<u>\$ (0.6)</u>
Adjusted EBITDA	\$ 28.1	\$ 5.3	\$ 9.0	\$ (19.1)	\$ —
Reconciling items to net loss attributable to partners:					
Depreciation and amortization	15.9	2.8	9.5	2.0	—
LCM / LIFO gain	(3.4)	—	(2.6)	—	—
Interest expense	10.9	1.1	10.1	29.5	—
Unrealized loss on derivatives	17.6	—	4.5	—	—
RINs mark-to-market loss	6.1	—	3.3	—	—
Other non-recurring expenses	—	—	—	—	—
Equity-based compensation and other items	—	—	—	—	—
Income tax expense	—	—	—	—	—
Net loss attributable to partners	—	—	—	—	—
Capital expenditures	\$ 11.1	\$ 0.6	\$ 65.2	\$ 0.1	\$ —
PP&E, net	\$ 370.3	\$ 34.1	\$ 604.1	\$ 6.7	\$ —

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Three Months Ended June 30, 2022	Specialty					Consolidated	
	Products and	Performance	Montana/				
	Solutions (2) (3)	Brands	Renewables	Corporate	Eliminations		Total
Sales:							
External customers	\$ 979.2	\$ 80.1	\$ 364.7	\$ —	\$ —		\$ 1,424.0
Inter-segment sales	7.0	—	—	—	(7.0)		
Total sales	<u>\$ 986.2</u>	<u>\$ 80.1</u>	<u>\$ 364.7</u>	<u>\$ —</u>	<u>\$ (7.0)</u>		<u>\$ 1,424.0</u>
Adjusted EBITDA	\$ 123.5	\$ 3.7	\$ 68.6	\$ (20.0)	\$ —		\$ 175.8
Reconciling items to net loss attributable to partners:							
Depreciation and amortization	16.1	2.8	9.5	1.9	—		29.3
LCM / LIFO gain	—	(0.2)	(1.0)	—	—		(1.2)
Interest expense	5.9	—	8.7	28.0	—		42.6
Unrealized loss on derivatives	53.5	—	—	—	—		53.5
RINs mark-to-market loss	44.7	—	24.0	—	—		68.7
Equity-based compensation and other items							
Income tax expense							
Net loss attributable to partners							<u>\$ (1,248.2)</u>
Capital expenditures	\$ 19.2	\$ 0.3	\$ 99.8	\$ —	\$ —		\$ 119.3
PP&E, net	\$ 373.8	\$ 34.1	\$ 737.0	\$ 4.8	\$ —		\$ 1,149.7

Six Months Ended June 30, 2023	Specialty					Cor
	Products and Solutions (1)	Performance Brands (4)	Montana/ Renewables (5)	Corporate	Eliminations	
Sales:						
External						
customers	\$ 1,422.8	\$ 164.3	\$ 467.6	\$ —	\$ —	\$
Inter-segment						
sales	10.6	0.1	—	—	(10.7)	
Total sales	<u>\$ 1,433.4</u>	<u>\$ 164.4</u>	<u>\$ 467.6</u>	<u>\$ —</u>	<u>\$ (10.7)</u>	<u>\$</u>
Adjusted						
EBITDA	\$ 137.4	\$ 28.6	\$ 17.4	\$ (38.0)	\$ —	\$
Reconciling						
items to net						
income						
attributable to						
partners:						
Depreciation						
and						
amortization	35.2	4.9	39.4	0.5	—	
LCM / LIFO						
loss	2.7	2.1	9.1	—	—	
Interest						
expense	13.3	0.1	29.9	61.7	—	
Debt						
extinguishment						
costs	—	—	—	5.2	—	
Unrealized						
gain on						
derivatives	(48.8)	—	(6.3)	—	—	
RINs mark-to-						
market gain	(28.6)	—	(13.9)	—	—	
Other non-						
recurring						
expenses						
Equity-based						
compensation						
and other						
items						
Income tax						
expense						
Noncontrolling						
interest						
adjustments						
Net income						
attributable to						
partners						\$

Capital expenditures	\$	40.0	\$	1.0	\$	179.9	\$	0.3	\$	—	\$	—
PP&E, net	\$	379.9	\$	33.4	\$	1,120.9	\$	2.2	\$	—	\$	—

(1) For the three months ended March 31, 2023, Adjusted EBITDA for the Specialty Products and Solutions segment included a \$1.1 million gain recorded in cost of sales in the unaudited condensed consolidated statements of operations for proceeds received under the Company's property damage insurance policy.

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(2) For the three months ended March 31, 2023, Adjusted

EBITDA
for
the
Performance
Brands
segment
included
a
\$5.0
million
gain
recorded
in
cost
of
sales
in
the
unaudited
condensed
consolidated
statements
of
operations
for
proceeds
received
under
the
Company's
business
interruption
insurance
policy.

(3) For
the
three
months
ended
March
31,
2023,
Adjusted
EBITDA
for
the
Montana/Renewables
segment
excluded
a
\$28.4
million
charge
to
cost
of
sales
in
the
unaudited

condensed
consolidated
statements
of
operations
for
losses
under
firm
purchase
commitments.

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Six Months Ended 30, 2022	Specialty Products and Performance Montana/ Cons	Solutions (2) (3)	Brands	Renewables	Corporate	Eliminations	1
Sales:							
External customers		\$ 1,748.6	\$ 153.3	\$ 620.0	\$ —	\$ —	\$ 2
Inter-segment sales		12.6	—	—	—	(12.6)	
Total sales		<u>\$ 1,761.2</u>	<u>\$ 153.3</u>	<u>\$ 620.0</u>	<u>\$ —</u>	<u>\$ (12.6)</u>	<u>\$ 2</u>
Adjusted EBITDA		\$ 151.6	\$ 9.0	\$ 77.6	\$ (39.1)	\$ —	\$
Reconciling items to net loss attributable to partners:							
Depreciation and amortization		32.0	5.6	19.0	3.9	—	
LCM / LIFO gain		(3.4)	(0.2)	(3.6)	—	—	
Interest expense		16.8	1.1	18.8	57.5	—	
Unrealized loss on derivatives		71.1	—	4.5	—	—	
RINs mark-to-market loss		50.8	—	27.3	—	—	

(1) For the three and six months ended June 30, 2023, Adjusted EBITDA for the Specialty Products and Solutions segment included a \$1.3 million and \$2.4 million gain, respectively, recorded in cost of sales in the unaudited condensed consolidated statements of operations for proceeds received under the Company's property damage insurance policy.

(2) For the three and six months ended June 30,

2022,
Adjusted
EBITDA
for
the
Specialty
Products
and
Solutions
segment
included
a
\$13.9
million
gain
recorded
to
cost
of
sales
in
the
unaudited
condensed
consolidated
statements
of
operations
for
proceeds
received
under
the
Company's
business
interruption
insurance
policy.
The
Company
incurred
business
losses
due
to
increased
costs
arising
from
a
polar
vortex
that
occurred
in
2021
in
northwest
Louisiana.
As
a

result,
the
Company
filed
a
contingent
business
interruption
claim.
Specifically,
the
losses
included
a
loss
of
throughput
at
the
Shreveport
refinery
and
additional
transportation
related
expenses.

(3) For
the
three
and
six
months
ended
June
30,
2022,
Adjusted
EBITDA
for
the
Specialty
Products
and
Solutions
segment
included
a
\$4.4
million
gain
recorded
in
cost
of
sales
in
the
unaudited
condensed
consolidated

statements
of
operations
for
proceeds
received
under
the
Company's
property
damage
insurance
policy
as
a
result
of
damages
caused
by
a
polar
vortex
that
occurred
in
2021.

(4) For the six months ended June 30, 2023, Adjusted EBITDA for the Performance Brands segment included a \$5.0 million gain recorded in cost of sales in the unaudited condensed consolidated statements of operations for proceeds received under the Company's business interruption insurance policy.

(5) For the six months ended June 30, 2023, Adjusted EBITDA for the Montana/Renewables segment excluded a \$28.4 million charge to cost of sales in the unaudited condensed consolidated statements of operations for losses under firm purchase commitments.

Geographic Information

International sales accounted for less than ten percent of consolidated sales in the three and six months ended March

31,
2023 June
30,
2023
and
2022.

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***Product
Information***

The
Company
offers
specialty,
fuels,
renewable
fuels
and
packaged
products
primarily
in
categories
consisting
of
lubricating
oils,
solvents,
waxes,
gasoline,
diesel,
jet
fuel,
asphalt,
heavy
fuel

oils,
renewable
fuels,
high-
performance
branded
products,
and
other
specialty
and
fuels
products.
The
following
table
sets
forth
the
major
product
category
sales
for
each
segment
for the
three
and six
months
ended
March
31,
2023 June
30,
2023
and
2022
(dollars
in
millions):

	Three Months Ended March 31,			
	2023		2022	
Specialty Products and Solutions:				
Lubricating oils	\$ 215.2	20.8 %	\$ 209.5	19.1 %
Solvents	106.6	10.3 %	92.0	8.4 %
Waxes	44.2	4.3 %	44.5	4.1 %

Fuels, asphalt and other by-products	372.7	35.8 %	423.4	38.5 %
Total	\$ 738.7	71.2 %	\$ 769.4	70.1 %
Montana/Renewables:				
Gasoline	\$ 42.9	4.1 %	\$ 58.6	5.3 %
Diesel	32.9	3.2 %	116.5	10.6 %
Jet fuel	4.9	0.5 %	11.4	1.0 %
Asphalt, heavy fuel oils and other	20.1	1.9 %	68.8	6.4 %
Renewable fuels	118.6	11.5 %	—	— %
Total	\$ 219.4	21.2 %	\$ 255.3	23.3 %
Performance Brands:	\$ 78.8	7.6 %	\$ 73.2	6.6 %
Consolidated sales	\$1,036.9	100.0 %	\$1,097.9	100.0 %

Three Months Ended June 30,				
	2023		2022	
Specialty Products and Solutions:				
Lubricating oils	\$ 186.3	18.3 %	\$ 245.3	17.2 %
Solvents	96.2	9.5 %	120.6	8.5 %
Waxes	40.2	3.9 %	49.8	3.5 %
Fuels, asphalt and other by-products	361.4	35.5 %	563.5	39.6 %
Total	\$ 684.1	67.2 %	\$ 979.2	68.8 %
Montana/Renewables:				
Gasoline	\$ 40.7	4.0 %	\$ 67.8	4.8 %
Diesel	35.9	3.5 %	180.8	12.7 %
Jet fuel	5.6	0.6 %	14.8	1.0 %
Asphalt, heavy fuel oils and other	37.8	3.7 %	101.3	7.1 %
Renewable fuels	128.2	12.6 %	—	— %
Total	\$ 248.2	24.4 %	\$ 364.7	25.6 %
Performance Brands:	\$ 85.5	8.4 %	\$ 80.1	5.6 %
Consolidated sales	\$1,017.8	100.0 %	\$1,424.0	100.0 %

Six Months Ended June 30,				
	2023		2022	
Specialty Products and Solutions:				
Lubricating oils	\$ 401.4	19.5 %	\$ 454.8	18.0 %
Solvents	202.8	9.9 %	212.6	8.5 %
Waxes	84.4	4.1 %	94.3	3.7 %
Fuels, asphalt and other by-products	734.2	35.7 %	986.9	39.1 %

Total	\$1,422.8	69.2 %	\$1,748.6	69.3 %
Montana/Renewables:				
Gasoline	\$ 83.6	4.1 %	\$ 126.4	5.0 %
Diesel	68.8	3.3 %	297.3	11.9 %
Jet fuel	10.5	0.5 %	26.2	1.0 %
Asphalt, heavy fuel				
oils and other	57.9	2.8 %	170.1	6.7 %
Renewable fuels	246.8	12.1 %	—	— %
Total	\$ 467.6	22.8 %	\$ 620.0	24.6 %
Performance Brands:	\$ 164.3	8.0 %	\$ 153.3	6.1 %
Consolidated sales	\$2,054.7	100.0 %	\$2,521.9	100.0 %

Major Customers

During the three and six months ended March 31, 2023 June 30, 2023 and 2022, the Company had no customer that represented 10% or greater of consolidated sales.

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**Major
Suppliers**

During
the
three
months
ended
March
31,
2023 June
30, 2023
and
2022,
the
Company
had
two
suppliers
that
supplied
approximately
94.4%91.1%
and
85.8%,
respectively,
of its
crude
oil
supply.
During
the six
months
ended
June
30, 2023
and
2022,
the
Company
had two suppliers
that
supplied
approximately 92.8%
and 85.1%,
respectively,
of its
crude
oil
supply.

**13.Unrestricted
Subsidiaries**

As
defined
in the
indentures
governing
the
Company's
outstanding
senior
notes,
an
unrestricted
subsidiary
means
MRHL,
MRL
and
any
other
subsidiary
of the
Company,
other
than
Calumet
Finance
Corp.,
that is
designated
by the
Company's
general
partner's
board
of
directors
as an
unrestricted
subsidiary,
but
only to
the
extent
that
such
subsidiary:

- has no indebtedness other than non-recourse debt owing to any person other than the Company or any of its restricted subsidiaries, except to the extent permitted by the indentures of the senior notes;
- is not party to any agreement, contract, arrangement or understanding with the Company or any restricted subsidiary of the Company unless the terms of any such

agreement,
contract,
arrangement
or
other
understanding
are
no
less
favorable
to
the
Company
or
such
restricted
subsidiary
than
those
that
might
be
obtained
at
the
time
from
persons
who
are
not
affiliates
of
the
Company,
except
to
the
extent
permitted
by
the
indentures
of
the
senior
notes;

- is
a
person
with
respect
to
which
neither
the
Company
nor
any
of

its
restricted
subsidiaries
has
any
direct
or
indirect
obligation
(a)
to
subscribe
for
additional
equity
interests
or
(b)
to
maintain
or
preserve
such
person's
financial
condition
or
to
cause
such
person
to
achieve
any
specified
levels
of
operating
results,
except
to
the
extent
permitted
by
the
indentures
of
the
senior
notes;
and

- has
not
guaranteed
or
otherwise
directly
or
indirectly

provided
credit
support
for
any
indebtedness
of
the
Company
or
any
of
its
restricted
subsidiaries.

- has
no
indebtedness
other
than
non-
recourse
debt
owing
to
any
person
other
than
the
Company
or
any
of
its
restricted
subsidiaries,
except
to
the
extent
permitted
by
the
indentures
of
the
senior
notes;
- is
not
party
to
any
agreement,
contract,
arrangement
or

understanding
with
the
Company
or
any
restricted
subsidiary
of
the
Company
unless
the
terms
of
any
such
agreement,
contract,
arrangement
or
other
understanding
are
no
less
favorable
to
the
Company
or
such
restricted
subsidiary
than
those
that
might
be
obtained
at
the
time
from
persons
who
are
not
affiliates
of
the
Company,
except
to
the
extent
permitted
by
the
indentures
of

the
senior
notes;

- is
a
person
with
respect
to
which
neither
the
Company
nor
any
of
its
restricted
subsidiaries
has
any
direct
or
indirect
obligation
(a) to
subscribe
for
additional
equity
interests
or
(b) to
maintain
or
preserve
such
person's
financial
condition
or
to
cause
such
person
to
achieve
any
specified
levels
of
operating
results,
except
to
the
extent
permitted
by
the

indentures
of
the
senior
notes;
and

- has
not
guaranteed
or
otherwise
directly
or
indirectly
provided
credit
support
for
any
indebtedness
of
the
Company
or
any
of
its
restricted
subsidiaries.

As

of
March
31,
2023 June
30,
2023
and
December
31,
2022,
respectively,
MRHL
and
MRL
were
the
only
unrestricted
subsidiaries
of the
Company.
In
accordance
with

the
indentures
governing
the
Company's
outstanding
senior
notes,
the
following
tables
set
forth
certain
financial
information
of
(i) the
Company
and its
restricted
subsidiaries,
on a
combined
basis,
(ii) the
Company's
unrestricted
subsidiaries,
on a
combined
basis,
and
(iii) the
Company
and its
subsidiaries,
on a
consolidated
basis,
in
each
case,
as of
March
31,
2023 June
30,
2023
and

December
31,
2022,
respectively.

	Parent Company and				Consolidated	
	Restricted Subsidiaries	Unrestricted Subsidiaries	Eliminations		Total	
June 30, 2023						
Cash and cash equivalents	\$ 32.6	\$ 3.4	\$ —		\$ 36.0	
Accounts receivable	\$ 279.4	\$ 35.9	\$ —		\$ 315.3	
Inventory	\$ 330.2	\$ 109.7	\$ —		\$ 439.9	
Prepaid expenses and other current assets	\$ 19.6	\$ 21.9	\$ —		\$ 41.5	
Property, plant and equipment, net	\$ 747.0	\$ 789.4	\$ —		\$ 1,536.4	
Other noncurrent assets, net	\$ 404.2	\$ 16.2	\$ —		\$ 420.4	
Accounts payable	\$ 242.9	\$ 217.7	\$ (182.4)		\$ 278.2	
Accrued interest payable	\$ 34.4	\$ 1.3	\$ —		\$ 35.7	
Obligations under inventory financing agreements	\$ 121.4	\$ 91.7	\$ —		\$ 213.1	
Other current liabilities	\$ 90.3	\$ 9.5	\$ —		\$ 99.8	
Current portion of long-term debt	\$ 8.6	\$ 13.3	\$ —		\$ 21.9	
Other long-term liabilities	\$ 50.3	\$ 4.1	\$ —		\$ 54.4	
Long-term debt	\$ 1,363.9	\$ 560.4	\$ (100.0)		\$ 1,824.3	
Redeemable noncontrolling interest	\$ —	\$ 250.0	\$ —		\$ 250.0	

Partners' capital (deficit)	\$	(357.5)	\$	(171.5)	\$	(18.8)	\$	(547.8)

<u>March 31, 2023</u>	Parent Company and				Consolidated	
	Restricted Subsidiaries	Unrestricted Subsidiaries	Eliminations		Total	
Cash and cash equivalents	\$ 5.9	\$ 5.3	\$ —		\$ 11.2	
Accounts receivable	\$ 264.3	\$ 32.6	\$ —		\$ 296.9	
Inventory	\$ 350.6	\$ 104.2	\$ —		\$ 454.8	
Prepaid expenses and other current assets	\$ 13.8	\$ 16.1	\$ —		\$ 29.9	
Property, plant and equipment, net	\$ 752.7	\$ 790.5	\$ —		\$ 1,543.2	
Other noncurrent assets, net	\$ 409.8	\$ 11.6	\$ —		\$ 421.4	
Accounts payable	\$ 299.6	\$ 247.3	\$ (152.6)		\$ 394.3	
Obligations under inventory financing agreements	\$ 145.0	\$ 59.0	\$ —		\$ 204.0	
Other current liabilities	\$ 84.4	\$ 28.3	\$ —		\$ 112.7	
Current portion of long-term debt	\$ 8.4	\$ 12.2	\$ —		\$ 20.6	
Other long-term liabilities	\$ 52.0	\$ 0.9	\$ —		\$ 52.9	
Long-term debt	\$ 1,304.1	\$ 492.7	\$ (100.0)		\$ 1,696.8	
Redeemable noncontrolling interest	\$ —	\$ 250.0	\$ —		\$ 250.0	
Partners' capital (deficit)	\$ (380.4)	\$ (130.1)	\$ (15.6)		\$ (526.1)	

	Parent Company and				
<u>December 31, 2022</u>	<u>Restricted Subsidiaries</u>	<u>Unrestricted Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated Total</u>	
Cash and cash equivalents	\$ 9.4	\$ 25.8	\$ —	\$ 35.2	
Accounts receivable	\$ 259.8	\$ 8.2	\$ —	\$ 268.0	
Inventory	\$ 370.1	\$ 127.9	\$ —	\$ 498.0	
Prepaid expenses and other current assets	\$ 13.2	\$ 6.0	\$ —	\$ 19.2	
Property, plant and equipment, net	\$ 760.7	\$ 721.3	\$ —	\$ 1,482.0	
Other noncurrent assets, net	\$ 428.8	\$ 10.6	\$ —	\$ 439.4	
Accounts payable	\$ 307.6	\$ 265.6	\$ (130.8)	\$ 442.4	
Obligations under inventory financing agreements	\$ 158.2	\$ 63.6	\$ —	\$ 221.8	
Other current liabilities	\$ 100.8	\$ 13.7	\$ —	\$ 114.5	
Current portion of long-term debt	\$ 8.2	\$ 11.8	\$ —	\$ 20.0	
Other long-term liabilities	\$ 59.0	\$ 1.2	\$ —	\$ 60.2	
Long-term debt	\$ 1,183.3	\$ 356.4	\$ —	\$ 1,539.7	
Redeemable noncontrolling interest	\$ —	\$ 250.0	\$ —	\$ 250.0	
Partners' capital (deficit)	\$ (458.6)	\$ (62.5)	\$ (16.6)	\$ (537.7)	

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	Parent Company and		
	Restricted	Unrestricted	Consolidated

December 31, 2022	Subsidiaries	Subsidiaries	Eliminations	Total
Cash and cash equivalents	\$ 9.4	\$ 25.8	\$ —	\$ 35.2
Accounts receivable	\$ 259.8	\$ 8.2	\$ —	\$ 268.0
Inventory	\$ 370.1	\$ 127.9	\$ —	\$ 498.0
Prepaid expenses and other current assets	\$ 13.2	\$ 6.0	\$ —	\$ 19.2
Property, plant and equipment, net	\$ 760.7	\$ 721.3	\$ —	\$ 1,482.0
Other noncurrent assets, net	\$ 428.8	\$ 10.6	\$ —	\$ 439.4
Accounts payable	\$ 307.6	\$ 265.6	\$ (130.8)	\$ 442.4
Obligations under inventory financing agreements	\$ 158.2	\$ 63.6	\$ —	\$ 221.8
Other current liabilities	\$ 100.8	\$ 13.7	\$ —	\$ 114.5
Current portion of long-term debt	\$ 8.2	\$ 11.8	\$ —	\$ 20.0
Other long-term liabilities	\$ 59.0	\$ 1.2	\$ —	\$ 60.2
Long-term debt	\$ 1,183.3	\$ 356.4	\$ —	\$ 1,539.7
Redeemable noncontrolling interest	\$ —	\$ 250.0	\$ —	\$ 250.0
Partners' capital (deficit)	\$ (456.4)	\$ (62.5)	\$ (18.8)	\$ (537.7)

For
the
three months
ended
March
31,
2023 June

30,
2023,
the
Company's
unrestricted
subsidiaries
had
revenue
of
\$118.6
million \$128.2
million,
operating
costs
of
\$164.6 million, \$123.6
million,
which
was
exclusive
of
depreciation
expense
of
\$8.3 \$10.7 million,
selling,
general
and
administrative
expense
of \$3.7
million,
other
operating
expense
of \$3.0
million \$5.6
million,
interest
expense
of
\$13.0 \$23.9 million,
unrealized
gain loss
on
derivative
instruments
of \$4.2
million \$2.9
million,

other
income
of \$0.1
million
and
net
loss
attributable
to
noncontrolling
interest
of \$9.9
million \$5.5
million.

For
the
three months
ended
March
31,
2022 June
30,
2022,
the
Company's
unrestricted
subsidiaries
had
tolling
revenue
of
\$14.4 \$28.9 million,
operating
costs
of
\$6.9 \$7.0 million,
which
was
exclusive
of
depreciation
expense
of
\$2.8 \$3.8 million,
and
interest
expense
of
\$11.1 \$11.2 million.

For
the

six months
ended
June
30,
2023,
the
Company's
unrestricted
subsidiaries
had
revenue
of
\$246.8
million,
operating
costs
of
\$288.2
million,
which
was
exclusive
of
depreciation
expense
of
\$19.0 million,
selling,
general
and
administrative
expense
of \$9.3
million,
other
operating
expense
of \$3.8
million,
interest
expense
of
\$36.9 million,
unrealized
gain
on
derivative
instruments
of \$1.3
million,

other
income
of \$0.1
million
and
net
loss
attributable
to
noncontrolling
interest
of
\$15.4
million.
For
the six
months
ended
June
30,
2022,
the
Company's
unrestricted
subsidiaries
had
tolling
revenue
of
\$43.2 million,
operating
costs
of
\$13.9 million,
which
was
exclusive
of
depreciation
expense
of
\$7.5 million,
and
interest
expense
of
\$22.3 million.

14.
Redeemable

**Noncontrolling
Interest**

On
August
5,
2022
(the
"Closing
Date"),
MRHL
issued
and
sold
12,500,000
preferred
units
("Preferred
Units")
in
MRHL
to an
affiliate
of
Warburg
Pincus
LLC
for
\$250.0
million
for an
immediate
cash
payment
of
\$200.0
million
and
the
agreement
to pay
the
remaining
\$50.0
million
in cash
not
later
than
October

3,
2022
(the
"Deferred
Purchase
Price")
in
exchange
for
a Percentage
Interest
of
14.2%
in
MRHL.
The
Company
received
the
cash
payment
for the
Deferred
Purchase
Price
on
October
3,
2022.
The
Preferred
Units
are not
interest
bearing
and
carry
certain
minimum
return
thresholds.

Holders
of the
Preferred
Units
are
entitled
to
receive

a
preferred
return
equal
to the
greater
of
(i) an
internal
rate of
return,
or IRR
(as
defined
in the
Second
Amended
and
Restated
Limited
Liability
Company
Agreement
of
MRHL
(the
"Second
A&R
LLC
Agreement"),
equal
to
8.0%
and
(ii) a
multiple
on
invested
capital,
or
MOIC
(as
defined
in the
Second
A&R
LLC
Agreement),
initially
equal

to 1.35
and
increasing
by
0.01
each
anniversary
of the
Closing
Date
up to a
maximum
MOIC
equal
to 1.40
on or
after
the
fifth
anniversary
of the
Closing
Date
(the
"Preferred
Return").
Pursuant
to the
Second
A&R
LLC
Agreement,
MRHL
is
required
to
distribute
all
Available
Cash
(as
defined
in the
Second
A&R
LLC
Agreement),
to the
members
of

MRHL
(the
"Members")
in the
following
priority:
(i) 37.5%
to the
holders
of the
Preferred
Units
and
62.5%
to all
other
Members
pro
rata
based
on
their Percentage
Interests
(as
defined
in the
Second
A&R
LLC
Agreement)
until
the
holders
of the
Preferred
Units
receive
the
Preferred
Return
and
(ii) thereafter,
100.0%
to the
Members
pro
rata
based
on
their Percentage

Interests.
Additionally,
pursuant
to the
Second
A&R
LLC
Agreement
the
Company
is
required
to
make
distributions
to the
members
sufficient
to
enable
them
to pay,
on a
quarterly
basis,
federal,
state
and
local

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taxes
arising
from
the
allocations
made
to
such
members.
Further,
such

distributions
are
determined
by the
Company
and
shall
be
made
within
thirty(30) days
after
the
close
of
each
applicable
quarter.
Any
tax
liability
distributions
shall
be
treated
as an
advance
against,
and
shall
reduce
the
amount
of, the
next
distribution
that
the
members
would
otherwise
receive
pursuant
to the
agreement.

At
any
time
following

the
fifth
anniversary
of the
Closing
Date, if
MRHL
has
not
had an
Initial
Public
Offering
or
Change
of
Control
(each
as
defined
in the
Second
A&R
LLC
Agreement),
Warburg
has
the
right to
initiate
an
Initial
Public
Offering
or
Change
of
Control
transaction
pursuant
to the
terms
of the
Second
A&R
LLC
Agreement.
Upon
the
closing

of a
Qualified
Initial
Public
Offering
(as
defined
in the
Second
A&R
LLC
Agreement),
each
of
MRHL
and
Warburg
have
the
right to
elect
to
convert
all (but
not
less
than
all) of
the
Preferred
Units
(i) first
by
MRHL
paying
each
holder
of
Preferred
Units
an
amount
in cash
equal
to
such
holder's
Preferred
Return
(to the

extent
not
already
paid)
and
(ii) thereafter,
the
Preferred
Units
automatically
convert
into
the
same
number
of
common
units
of
MRHL
and
will be
entitled
to
participate
in any
distributions
of
Available
Cash
to the
Members
in
proportion
to their
respective Percentage
Interests.
The
Second
A&R
LLC
Agreement
also
provides
certain
drag-
along
rights
in
connection

with a
Change
of
Control,
subject
to a
minimum
preferred
return
requirement
for
certain
transactions
that
are
consummated
before
the
third
anniversary
of the
Closing
Date.

The
redeemable
noncontrolling
interest
in
MRHL
is
reflected
as
temporary
equity
in the
condensed
consolidated
balance
sheets
due to
the
redemption
features
described
above
and
included
a
balance

of
\$250.0
million
as of
March
31,
2023 June
30,
2023.
The
Company
recorded
the
Preferred
Units
at their
issuance
date
fair
value,
net of
issuance
costs.
We
recorded
an
adjustment
for the
\$9.9
million \$15.4
million
net
loss
attributable
to
noncontrolling
interest
to
accrete
the
carrying
amount
to
redemption
value
as of
March
31,
2023 June
30,

2023.

As of
the
reporting
date,
there
are no
triggering,
change
of
control,
early
redemption
or
monetization
events
that
are
probable
that
would
require
us to
revalue
the
Preferred
Units.

The
changes
in our
redeemable
noncontrolling
interest
in
MRHL
from
December
31,
2022
to
March
31,
2023 June
30,
2023
were
as
follows

(in
millions).

	Redeemable Noncontrolling Interest	
Balance at December 31, 2022	\$	250.0
Net loss attributable to noncontrolling interest		(9.9)
Adjustment to ASC 480 redemption value		9.9
Balance at March 31, 2023	\$	250.0

	Redeemable Noncontrolling Interest	
Balance at December 31, 2022	\$	250.0
Net loss attributable to noncontrolling interest		(15.4)
Adjustment to ASC 480 redemption value		15.4
Balance at June 30, 2023	\$	250.0

15. Subsequent Events

As
of April
28,
2023 July
31,
2023,

the fair
value
of the
Company's
derivative
instruments
have
increased decreased
by
approximately
\$40.4
million \$46.9
million
subsequent
to
March
31,
2023 June
30,
2023.

MRL
Term
Loan
Credit
Agreement

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On
April
19,
2023,
MRL
and
MRHL
entered
into a
Credit
Agreement
(the
"MRL
Term
Loan
Credit
Agreement")
with a
group
of
financial
institutions,
including
I

Squared
Capital
and
Delaware
Trust
Company,
as
administrative
agent,
that
provides
for a
\$75.0
million
term
loan
facility
with a
maturity
date of
April
19,
2028
(the
"Maturity
Date").
The
MRL
Term
Loan
Credit
Agreement
provides
for a
variable
interest
rate
based
on the
SOFR
plus
6.0%
to
7.3%
per
annum.
The
borrowings
under
the
MRL
Term
Loan
Credit
Agreement
are
repayable
in
quarterly
installments
commencing

on
June
30,
2023,
in an
amount
equal
to
0.25%
of the
outstanding
principal
amount
under
the
MRL
Term
Loan
Credit
Agreement
as of
each
quarterly
payment
date,
plus
additional
principal
payments
to the
extent
MRL
has
excess
cash
flows,
pursuant
to the
terms
of the
MRL
Term
Loan
Credit
Agreement.
The
remaining
borrowings
under
the
MRL
Term
Loan
Credit
Agreement
are
repayable
on the
Maturity
Date.

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Item
**2.Management's
Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations**

The
historical
unaudited
condensed
consolidated
financial
statements
included
in
this
Quarterly
Report
reflect
all of
the
assets,
liabilities
and
results
of
operations
of
Calumet
Specialty
Products
Partners, L.P.
("Calumet,"
the
"Company,"
"we,"
"our,"
or

“us”).
The
following
discussion
analyzes
the
financial
condition
and
results
of
operations
of the
Company
for
the
three and
six
months
ended
March
31,
2023 June
30,
2023.
Unitholders
should
read
the
following
discussion
and
analysis
of
our
financial
condition
and
results
of
operations
in
conjunction
with
our
2022
Annual
Report
and
our

*historical
unaudited
condensed
consolidated
financial
statements
and
notes
included
elsewhere
in
this
Quarterly
Report.*

Overview

We
manufacture,
formulate
and
market
a
diversified
slate
of
specialty
branded
products
and
renewable
fuels
to
customers
across
a
broad
range
of
consumer-
facing
and
industrial
markets.
We
also
own
what
we
believe
is

one
of
North
America's
leading
renewable
diesel
and
sustainable
aviation
fuel
manufacturing
facilities.
We
are
headquartered
in
Indianapolis,
Indiana
and
operate
twelve
facilities
throughout
North
America.

Our
operations
are
managed
using
the
following
reportable
segments:
Specialty
Products
and
Solutions;
Performance
Brands;
Montana/Renewables;
and
Corporate.
For
additional
information,
see
Note Note

12 -
“Segments
and
Related
Information”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements.”
In
our
Specialty
Products
and
Solutions
segment,
we
manufacture
and
market
a
wide
variety
of
solvents,
waxes,
customized
lubricating
oils,
white
oils,
petrolatums,
gels,
esters,
and
other
products.
Our
specialty
products
are
sold

to
domestic
and
international
customers
who
purchase
them
primarily
as
raw
material
components
for
consumer-
facing
and
industrial
products.
In
our
Performance
Brands
segment,
we
blend,
package
and
market
high
performance
products
through
our
Royal
Purple,
Bel-
Ray,
and
TruFuel
brands.
Our
Montana/Renewables
segment
is
comprised
of
two
facilities —
renewable

fuels
and
specialty
asphalt.
At
our
Great
Falls
renewable
fuels
facility,
we
currently
process,
or
expect
to
have
the
future
capability
to
process
a
variety
of
geographically
advantaged
renewable
feedstocks
into
renewable
diesel,
sustainable
aviation
fuel,
renewable
hydrogen,
renewable
natural
gas,
renewable
propane,
and
renewable
naphtha
that
are
or
are

expected
to be,
distributed
into
renewable
markets
in the
western
half
of
North
America.
At
our
Montana
specialty
asphalt
facility,
we
process
Canadian
crude
oil
into
conventional
gasoline,
diesel,
jet
fuel
and
specialty
grades
of
asphalt,
with
production
sized
to
serve
local
markets.
Our
Corporate
segment
primarily
consists
of
general
and
administrative

expenses
not
allocated
to the
Specialty
Products
and
Solutions,
Performance
Brands
or
Montana/Renewables
segments.

First

Second

Quarter

2023

Update

Outlook

and

Trends

During
the
first **second**
quarter
of
2023,
a
strong **healthy**
margin
environment
continued
to
benefit
our
business.
Product **We**
experienced
strong
product
demand
continued
to be
strong
across
most
of the

enterprise,
and
we
expect
margins
to
remain
elevated
above
historical
averages.
Low We
believe
low
unemployment,
stabilizing
raw
material
and
packaging
costs,
and
lower
than
normal
industry
inventories
point
to a
continuation
of
this
trend.
While
the
risk
of
recession
and
inflation
continue
to be
monitored,
our
plants
and
the
industry
continue are
expected

to
operate
at
raised
utilization high
rates
to
meet
market
demand.

Our
Specialty
Products
and
Solutions
segment
continues
to
experience
elevated
margins
as
we
see find
itself
in an
above
mid-
cycle
environment.
Market
demand
is
relatively
high
compared
to
historical
averages,
and
this
business
is
able
to
leverage
the
benefit benefits
of a

fully
integrated
specialty
business
in
this
market
environment. market.
As
expected,
margins
continued
to
slowly
normalize
relative
to
record
highs
experienced
in
2022.
At
our
Great
Falls
renewable
fuels
facility,
we
successfully
commissioned
the
renewable
hydrogen
plant
in
March remainder
of
2023 the
operating
units
and
we
achieved
design ramped
up
throughput
capacity
in

early
April to
expected
levels
during
the
second
quarter
of
2023.
In
addition,
our
legacy With
the
commissioning
of the
sustainable
aviation
fuel
("SAF")
unit
during
the
second
quarter,
Montana
Renewables
became
the
largest
SAF
producer
in
North
America.
Further,
as a
result
of the
start-
up of
the
feedstock
pre-
treatment
unit
in
Great
Falls,

facility
resumed
full
operations
following we
are in
the
planned
turnaround
associated
with process
of
rotating
our
current
feedstock
mix
from
treated
safety
stocks
to
more
cost
advantaged
untreated
feedstocks,
which
is
expected
to
unlock
the
separation
and
start-
up of
our
renewable
fuels
facility
during advantaged
feedstock
flexibility
gained
by
having
so
much
feedstock

in
close
proximity
to the
fourth
quarter
of
2022. facility.
Results
in our
Performance
Brands
segment
improved
in the
current
quarter
as
input
costs
continue
to
stabilize. stabilize,
price
increases
from
previous
periods
have
largely
held,
and
industrial
volume
demand
is
growing.

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—

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As
we

saw
during
2020
with
COVID-
19
and
the
start
of the
global
pandemic,
our
integrated
business
model
and
diversified
product
portfolio
provides
an
advantaged
response
to
changing
market
conditions.
While
we
are
not
immune
to the
impacts
of an
economic
downturn,
we
believe
our
specialty
business
is
well
positioned
to
withstand
one.

During
April
of
2023,
we
completed
construction
of the
feedstock
pre-
treatment
and
sustainable
aviation
fuel
units
at
our
Montana
Renewables
facility.
The
commissioning
of the
pre-
treatment
unit
is
expected
to
fully
unlock
the
geographic
advantage
we
have
in
Montana
by
providing
the
ability
to
procure
discounted
regional
feedstocks,
and
the
commissioning
of the
sustainable
aviation
fuel
unit
will
allow
Montana
Renewables
to

become
the
largest
SAF
producer
in
North
America.

Contingencies

For
a
summary
of
litigation
and
other
contingencies,
please
read
Note
6 -
“Commitments
and
Contingencies”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements.”
Based
on
information
available
to us
at the
present
time,
we
do
not
believe
that
any

liabilities
beyond
the
amounts
already
accrued,
which
may
result
from
these
contingencies,
will
have
a
material
adverse
effect
on
our
liquidity,
financial
condition
or
results
of
operations.

Financial Results

We
reported
a net
income loss
of \$18.8
million \$24.0
million in the
first the
second
quarter
2023
versus
a net
loss
of
\$95.5
million \$15.3
million in the

first second
quarter
2022.
We
reported
Adjusted
EBITDA
(as
defined
in
Note
12 -
“Segments
and
Related
Information”
under
Part I,
Item
1
“Financial
Statements -
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”)
of
\$77.7
million \$67.7
million
in the
first second
quarter
2023
versus
\$23.3
million \$175.8
million
in the
first second
quarter
2022.
We
used
cash
from
operating
activities

of
\$26.7
million \$25.9
million
in the
first second
quarter
2023
versus
using generating
cash
from
operating
activities
of
\$2.9
million \$89.7
million
in the
first second
quarter
of
2022,
primarily
driven
by an
increase
in the
cash
required
for
working
capital
to
support
the
start-
up of
production
at
our
Montana
Renewables
facility.
This
impact
was
partially
offset
by an

increase
of
\$64.0
million
in
gross
profit
between
the
comparative
periods.

Please
read
Item
2
“Management’s
Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations —
Non-
GAAP
Financial
Measures”
for a
reconciliation
of
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
to
Net
income
(loss),
our
most
directly
comparable
financial

performance
measure
calculated
and
presented
in
accordance
with
U.S.
generally
accepted
accounting
principles
("GAAP").

Specialty
Products
and
Solutions
segment
Adjusted
EBITDA
was
\$76.4
million \$61.0
million
in the
first second
quarter
2023
versus
\$28.1
million \$123.5
million
in the
first second
quarter
2022.
Compared
to the
first second
quarter
of
2022,
Specialty
Products
and
Solutions
first second
quarter

2023
segment
Adjusted
EBITDA
was
favorably unfavorably
impacted
by
lower
throughput
volumes
as a
result
of the
strong
margin
environment
experienced planned
turnaround
completed
at
our
Cotton
Valley
facility
during
the
quarter,
which
was
partially
offset
by a
decrease
in
sales
volumes
as
our
Shreveport
facility
underwent
a
small
turnaround
during
the current
quarter
and
recoveredunplanned

outages
caused
by
the
severe
weather
in
Northwest
Louisiana
throughout
the
quarter.
The
specialties
and
fuels
margin
environments
continue
to
slowly
regress
from
the
arctic
freeze
incurred
during
the
quarter.

record
highs,
but
remain
strong
compared
to
historical
averages
and
continue
to
benefit
our
business.

Montana/Renewables
segment
Adjusted
EBITDA
was
\$4.8

million \$12.6
million
in the
first second
quarter
2023
versus
\$9.0
million \$68.6
million
in the
first second
quarter
2022.
Our
current
quarter
results
were
unfavorably
impacted
due
to
lower
production
volumes
as a
result
of
modifying
our
legacy
Great
Falls
specialty
asphalt
facility
to
operate
at a
new
and
reduced
nameplate
capacity
as
part
of the
conversion
to

renewable
fuel
production.
In
addition,
our
current
quarter
results
were
unfavorably
impacted
due
to
higher
input
and
operational material
costs,
primarily
as it
related
to
higher
priced
pre-
treated
feedstocks
to
support
the
commissioning start-
up of
the
renewable
hydrogen
plant,
feedstock
pre-
treatment
unit,
and
SAF
unit. units.
As a
result
of
commissioning
the these
units,

we
have
started
to
rotate
our
current
feedstock
pre-
treatment
unit,
we
expect mix
from
treated
feeds
that
are
being
reduced
from
safety
stock
to
experience
significant
benefits
for
the
remainder
of the
year.
as
we
will
capitalize
on
our
unique
position advantaged
untreated
feedstocks,
which
is
expected
to
unlock
the
geographic
advantage advantaged

price
and
feedstock
optionality
we
have
in
Montana.

Performance

Brands
segment
Adjusted
EBITDA
was
\$16.4
million \$12.2
million
in the
first second
quarter
2023
versus
\$5.3
million versus
\$3.7
million
in the
first second
quarter
2022.
Compared
to the
first second
quarter
of
2022,
Performance
Brands
segment
Adjusted
EBITDA
was
favorably
impacted
by an
increase
in net
unit
margins

as a
result
of
input
costs
stabilizing
in our
branded
and
consumer
markets.
Our
first
quarter
results markets
and
an
increase
in the
Performance
Brands
segment
were
also
favorably
impacted
by
partial
receipt
of
proceeds
from
the
Company's
business
interruption
insurance
policy
recorded
in the
current
year
period.
industrial
volumes.
Total
Corporate
costs
represented

a
loss
of
\$19.9
million \$18.1
million
of
Adjusted
EBITDA
in the
first second
quarter
2023
versus
a
loss
of
\$19.1
million \$20.0
million
of
Adjusted
EBITDA
in the
first second
quarter
2022
due
to
higher lower
labor
and
benefits
related
expenses.

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Liquidity
Update

As
of
March

31,
2023 June
30,
2023,
we
had
total
liquidity
of
\$244.9
million
comprised
of
\$11.2
million
of \$401.5
million
comprised
of
\$36.0
million
of
unrestricted
cash
and
\$233.7
million \$365.5
million
of
availability
under
our
credit
facilities.
facilities.
As of
March
31,
2023 June
30,
2023,
our
revolving
credit
facilities
had had
a
\$491.6
million
borrowing

base,
\$19.0
million\$486.9
million
borrowing
base,
\$15.1
million
in
outstanding
standby
letters
of
credit
and
\$244.7
million \$106.3
million
of
outstanding
borrowings.
We
believe
we
will
continue
to
have
sufficient
liquidity
from
cash
on
hand,
projected
cash
flow
from
operations,
borrowing
capacity
and
other
means
by
which
to
meet
our
financial

commitments,
debt
service
obligations,
contingencies,
and
anticipated
capital
expenditures
for at
least
the
next
12 months.
Please
read
Item
2
"Management's
Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations -
Liquidity
and
Capital
Resources"
for
additional
information.

***Renewable
Fuel
Standard
Update***

Along
with
the
broader
refining
industry,
we
remain
subject

to
compliance
costs
under
the
RFS
unless
or
until
we
receive
a
small
refinery
exemption
from
the
EPA,
which
we
have
historically
received.
Administered
by
the
EPA,
the
RFS
provides
annual
requirements
for
the
total
volume
of
renewable
transportation
fuels
that
are
mandated
to be
blended
into
finished
transportation
fuels.
If a

refiner
does
not
meet
its
required
annual
Renewable
Volume
Obligation,
the
refiner
can
purchase
blending
credits
in the
open
market,
referred
to as
RINs.

During
the first second
quarter 2023,
we
accrued
a
non-
cash
benefit recorded
an
expense
of \$32.1
million \$20.5
million
for
RINs,,
as
compared
to a
non-
cash an
expense
of
\$31.1
million \$83.0
million for
RINs

in
the first the second
quarter 2022.
Our
gross
RINs
Obligation,
which
includes
RINs
that that
are
required
to be
secured
through
either
our
own
blending
or
through
the
purchase
of
RINs
in the
open
market,
is
spread
across
four
compliance
categories
(D3,
D4,
D5
and
D6).
The
gross
RINs
obligations
may
be
satisfied
by
our
own

renewables
blending,
RIN
purchases,
or
receipt
of
small
refinery
exemptions.

Expenses
related
to
RFS
compliance
have
the
potential
to
remain
a
significant
expense
for
our
two
segments
containing
fuels
products.
If
legal
or
regulatory
changes
occur
that
have
the
effect
of
increasing
our
RINs
Obligation
or
eliminating
or
narrowing

the
availability
of the
small
refinery
exemption
under
the
RFS
program,
we
could
be
required
to
purchase
additional
RINs
in the
open
market,
which
may
materially
increase
our
costs
related
to
RFS
compliance
and
could
have
a
material
adverse
effect
on
our
results
of
operations
and
liquidity.

See
Note
2 -

“Summary
of
Significant
Accounting
Policies”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
in
this
Quarterly
Report
for
further
information
on
the
Company’s
RINs
obligation.

***Unrestricted
Subsidiaries***

See
Note
13 -
“Unrestricted
Subsidiaries”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
in

this
Quarterly
Report
for
further
information
regarding
certain
financial
information
of
our
unrestricted
subsidiaries.

**Key
Performance
Measures**

Our
sales
and
results
of
operations
are
principally
affected
by
demand
for
specialty
products,
fuel
product
demand,
renewable
fuel
product
demand,
global
fuel
crack
spreads,
the
price
of
natural
gas
used
as

fuel
in our
operations,
our
ability
to
operate
our
production
facilities
at
high
utilization,
and
our
results
from
derivative
instrument
activities.

Our
primary
raw
materials
are
crude
oil,
renewable
feedstocks,
and
other
specialty
feedstocks,
and
our
primary
outputs
are
specialty
consumer-
facing
and
industrial
products,
specialty
branded
products,
fuel
products,

and
renewable
fuel
products.
The
prices
of
crude
oil,
specialty
products,
fuel
products,
and
renewable
fuel
products
are
subject
to
fluctuations
in
response
to
changes
in
supply,
demand,
market
uncertainties
and a
variety
of
factors
beyond
our
control.
We
monitor
these
risks
and
from
time-
to-
time
enter
into
derivative
instruments

designed
to
help
mitigate
the
impact
of
commodity
price
fluctuations
on
our
business.
The
primary
purpose
of
our
commodity
risk
management
activities
is to
economically
hedge
our
cash
flow
exposure
to
commodity
price
risk.
We
also
may
hedge
when
market
conditions
exist
that
we
believe

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to
be
out of
the
ordinary
and
particularly
supportive
of
our
financial
goals.
We
enter
into
derivative
contracts
for
future
periods
in
quantities
that
do
not
exceed
our
projected
purchases
of
crude
oil
and
natural
gas
and
sales
of
fuel
and
renewable
fuel
products.
Please
read
Note

“Derivatives”

under

Part I,

Item

1

“Financial

Statements —

Notes to

Unaudited

Condensed

Consolidated

Financial

Statements”

for

additional

information.

Our

management

uses

several

financial

and

operational

measurements

to

analyze

our

performance.

These

measurements

include

the

following:

- sales volumes;
- segment gross profit;
- segment Adjusted gross profit;
- segment Adjusted EBITDA; and

- selling, general and administrative expenses.
- sales volumes;
- segment gross profit;
- segment Adjusted gross profit;
- segment Adjusted EBITDA; and
- selling, general and administrative expenses.

Sales
volumes.
We
view
the
volumes
of
Specialty
Products
and
Solutions
products,
Montana/Renewables
products
and
Performance
Brands
products
sold
as an
important
measure
of
our
ability
to
effectively
utilize
our

operating
assets.
Our
ability
to
meet
the
demands
of
our
customers
is
driven
by
the
volumes
of
feedstocks
that
we
run
at
our
facilities.
Higher
volumes
improve
profitability
both
through
the
spreading
of
fixed
costs
over
greater
volumes
and
the
additional
gross
profit
achieved
on
the
incremental
volumes.

Segment
gross
profit.
Specialty
Products
and
Solutions,
Montana/Renewables
and
Performance
Brands
products
gross
profit
are
important
measures
of
profitability
of
our
segments.
We
define
gross
profit
as
sales
less
the
cost
of
crude
oil
and
other
feedstocks,
LCM/LIFO
adjustments,
and
other
production-
related
expenses,
the the
most
significant
portion
of
which

*includes
labor,
plant
fuel,
utilities,
contract
services,
maintenance,
transportation,
RINs,
depreciation
and
amortization
and
processing
materials.
We
use
gross
profit
as an
indicator
of
our
ability
to
manage
margins
in our
business
over
the
long-
term.
The
increase
or
decrease
in
selling
prices
typically
lags
behind
the
rising
or
falling
costs,
respectively,*

of
feedstocks
throughout
our
business. business.
Other
than
plant
fuel,
RINs
mark-
to-
market
adjustments,
and
LCM/LIFO
adjustments,
production
related
expenses
generally
remain
stable
across
broad
ranges
but
can
fluctuate
depending
on
maintenance
activities
performed
during
a
specific
period.

Segment
Adjusted
gross
profit.
Specialty
Products
and
Solutions,
Montana/Renewables
and
Performance

*Brands
products
segment
Adjusted
gross
profit
measures
are
useful
as
they
exclude
transactions
not
related
to
our
core
cash
operating
activities
and
provide
metrics
to
analyze
the
profitability
of the
core
cash
operations
of
our
segments.
We
define
segment
Adjusted
gross
profit
as
segment
gross
profit
excluding
the
impact
of
(a) LCM*

inventory
adjustments;
(b) the
impact
of
liquidation
of
inventory
layers
calculated
using
the
LIFO
method;
(c) RINs
mark-
to-
market
adjustments;
(d) depreciation
and
amortization;
and
(e) all
extraordinary,
unusual
or
non-
recurring
items
of
revenue
or
cost
of
sales.
During
the
first
quarter
of
2023,
the
CODM
changed
the
definition
and
calculation
of

*Adjusted
gross
profit,
which
we
use
for
evaluating
performance,
allocating
resources
and
managing
the
business.
The
revised
definition
and
calculation
of
Adjusted
gross
profit
now
excludes
the
impact
of all
extraordinary,
unusual
or
non-
recurring
items
of
revenue
or
cost
of
sales
(see
clause
(e) above).
Historically,
we
have
made
adjustments
for*

these
items
in our
calculation
of
Adjusted
EBITDA
and
we
believe
this
revised
definition
of
Adjusted
gross

profit
better
reflects
the
performance
of
our
Company's
business
segments.
Adjusted
gross
profit
has
been
revised
for all
periods
presented
to
consistently
reflect
this
change.

Segment
Adjusted
EBITDA.
We
believe
that
Specialty
Products
and

*Solutions,
Montana/Renewables
and
Performance
Brands
segment
Adjusted
EBITDA
measures
are
useful
as
they
exclude
transactions
not
related
to
our
core
cash
operating
activities
and
provide
metrics
to
analyze
our
ability
to
pay
interest
to
our
noteholders.
Adjusted
EBITDA
allows
us to
meaningfully
analyze
the
trends
and
performance
of
our
core
cash*

operations
as
well
as to
make
decisions
regarding
the
allocation
of
resources
to
segments.
Corporate
Adjusted
EBITDA
primarily
reflects
general
and
administrative
costs.

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—

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Results
of
Operations
for
the
Three
and
Six Months
Ended
March
31,
2023 June
30,
2023
and
2022

Production
Volume.

The following table sets forth information about our continuing operations. Facility production volume differs from sales volume due to changes in inventories and the sale of purchased blendstocks such as ethanol and specialty blendstocks, as well as the resale of crude oil.

	Three Months Ended June 30,			Six Months Ended June 30,		
	2023	2022	% Change	2023	2022	% Change
	(In bpd)			(In bpd)		
Total sales volume ⁽¹⁾	79,266	91,524	(13.4)%	78,071	90,978	(14.2)%
Total feedstock runs ⁽²⁾	74,383	88,363	(15.8)%	72,979	88,408	(17.5)%
Facility production: ⁽³⁾						

Specialty Products and Solutions:						
Lubricating oils	10,495	10,661	(1.6)%	10,396	10,713	(3.0)%
Solvents	6,053	6,776	(10.7)%	7,181	6,876	4.4 %
Waxes	1,314	1,204	9.1 %	1,344	1,360	(1.2)%
Fuels, asphalt and other by-products	36,093	38,948	(7.3)%	35,288	39,685	(11.1)%
Total Specialty Products and Solutions	53,955	57,589	(6.3)%	54,209	58,634	(7.5)%
Montana/Renewables:						
Gasoline	3,662	4,357	(16.0)%	4,032	4,687	(14.0)%
Diesel	3,105	10,992	(71.8)%	2,879	10,335	(72.1)%
Jet fuel	392	822	(52.3)%	450	964	(53.3)%
Asphalt, heavy fuel oils and other	4,728	11,071	(57.3)%	4,480	10,472	(57.2)%
Renewable fuels	7,312	—	100.0 %	6,177	—	100.0 %
Total Montana/Renewables	19,199	27,242	(29.5)%	18,018	26,458	(31.9)%
Performance Brands	2,754	1,615	70.5 %	2,345	1,617	45.0 %
Total facility production	75,908	86,446	(12.2)%	74,572	86,709	(14.0)%
(3)						

Three Months Ended March 31,			
	2023	2022	% Change
	(In bpd)		
Total sales volume ⁽¹⁾	76,856	90,422	(15.0)%
Total feedstock runs ⁽²⁾	71,559	88,452	(19.1)%
Facility production: ⁽³⁾			
Specialty Products and Solutions:			
Lubricating oils	10,297	10,765	(4.3)%
Solvents	8,321	6,977	19.3 %
Waxes	1,375	1,519	(9.5)%
Fuels, asphalt and other by-products	34,473	40,429	(14.7)%
Total Specialty Products and Solutions	54,466	59,690	(8.8)%
Montana/Renewables:			
Gasoline	4,406	5,020	(12.2)%
Diesel	2,651	9,671	(72.6)%
Jet fuel	509	1,108	(54.1)%
Asphalt, heavy fuel oils and other	4,229	9,865	(57.1)%
Renewable fuels	5,030	—	100.0 %

<i>Total</i>			
<i>Montana/Renewables</i>	<u>16,825</u>	<u>25,664</u>	<i>(34.4)%</i>
<i>Performance Brands</i>	<u>1,931</u>	<u>1,619</u>	<i>19.3 %</i>
<i>Total facility production ⁽³⁾</i>	<u><u>73,222</u></u>	<u><u>86,973</u></u>	<i>(15.8)%</i>

(1)
Total
sales
volume
includes
sales
from
the
production
at
our
facilities
and
certain
third-
party
facilities
pursuant
to
supply
and/or
processing
agreements,
sales
of
inventories
and
the
resale
of
crude
oil
to
third-
party
customers.
Total
sales
volume
includes
the
sale
of
purchased
blendstocks.

(2) Total feedstock runs represent the barrels per day of crude oil and other feedstocks processed at our facilities and at certain third-party facilities pursuant to supply and/or processing agreements.

(3) The difference between total facility production and total feedstock runs is primarily a result of the time lag between the input of feedstocks and production of finished products and volume loss.

(1) *Total sales volume includes sales from the production at our facilities and certain third-party facilities pursuant to supply and/or processing agreements, sales of inventories and the resale of*

crude
oil
to
third-
party
customers.
Total
sales
volume
includes
the
sale
of
purchased
blendstocks.

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(2) Total
feedstock
runs
represent
the
barrels
per
day
of
crude
oil
and
other
feedstocks
processed
at
our
facilities
and
at
certain
third-
party
facilities
pursuant
to
supply
and/or
processing
agreements.

(3) The
difference
between
total
facility
production
and
total
feedstock
runs

is
primarily
a
result
of
the
time
lag
between
the
input
of
feedstocks
and
production
of
finished
products
and
volume
loss.

—

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The
following
table
reflects
our
unaudited
condensed
consolidated
results
of
operations
and
includes
the
non-
GAAP
financial
measures
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash

Flow.
For
a
reconciliation
of
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
to
Net
income
(loss)
attributable
to
partners,
our
most
directly
comparable
financial
performance
measure
calculated
and
presented
in
accordance
with
GAAP,
please
read
“
Non-
GAAP
Financial
Measures.”

	Three Months Ended March 31,	
	2023	2022
	(In millions)	
Sales	\$1,036.9	\$1,097.9
Cost of sales	940.2	1,065.2
Gross profit	96.7	32.7
Operating costs and expenses:		

Selling	13.5	12.6
General and administrative	37.0	32.6
Other operating expense	3.0	4.8
Operating income (loss)	43.2	(17.3)
Other income (expense):		
Interest expense	(49.2)	(51.6)
Gain (loss) on derivative instruments	25.5	(22.1)
Other expense	(0.2)	(3.8)
Total other expense	(23.9)	(77.5)
Net income (loss) before income taxes	19.3	(94.8)
Income tax expense	0.5	0.7
Net income (loss)	\$ 18.8	\$ (95.5)
Net loss attributable to noncontrolling interest	(9.9)	—
Net income (loss) attributable to partners	\$ 28.7	\$ (95.5)
EBITDA	\$ 104.9	\$ (18.9)
Adjusted EBITDA	\$ 77.7	\$ 23.3
Distributable Cash Flow	\$ 5.2	\$ (43.3)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(In millions)			
Sales	\$ 1,017.8	\$ 1,424.0	\$ 2,054.7	\$ 2,521.9
Cost of sales	946.4	1,280.1	1,886.6	2,345.3
Gross profit	71.4	143.9	168.1	176.6
Operating costs and expenses:				
Selling	15.5	16.2	29.0	28.8
General and administrative	27.3	22.5	64.3	55.1
Other operating expense	5.2	9.5	8.2	14.3

Operating				
income	<u>23.4</u>	<u>95.7</u>	<u>66.6</u>	<u>78.4</u>
Other income				
(expense):				
Interest				
expense	(55.8)	(42.6)	(105.0)	(94.2)
Gain (loss) on				
derivative				
instruments	14.3	(67.6)	39.8	(89.7)
Other expense	<u>(5.5)</u>	<u>(0.2)</u>	<u>(5.7)</u>	<u>(4.0)</u>
Total other				
expense	<u>(47.0)</u>	<u>(110.4)</u>	<u>(70.9)</u>	<u>(187.9)</u>
Net loss before				
income taxes	(23.6)	(14.7)	(4.3)	(109.5)
Income tax				
expense	<u>0.4</u>	<u>0.6</u>	<u>0.9</u>	<u>1.3</u>
Net loss	<u>\$ (24.0)</u>	<u>\$ (15.3)</u>	<u>\$ (5.2)</u>	<u>\$ (110.8)</u>
Net loss				
attributable to				
noncontrolling				
interest	<u>(5.5)</u>	<u>—</u>	<u>(15.4)</u>	<u>—</u>
Net income				
(loss)				
attributable to				
partners	<u>\$ (18.5)</u>	<u>\$ (15.3)</u>	<u>\$ 10.2</u>	<u>\$ (110.8)</u>
EBITDA	<u>\$ 66.1</u>	<u>\$ 52.6</u>	<u>\$ 171.0</u>	<u>\$ 33.7</u>
Adjusted				
EBITDA	<u>\$ 67.7</u>	<u>\$ 175.8</u>	<u>\$ 145.4</u>	<u>\$ 199.1</u>
Distributable				
Cash Flow	<u>\$ (7.8)</u>	<u>\$ 117.7</u>	<u>\$ (2.6)</u>	<u>\$ 74.4</u>

**Non-
GAAP
Financial
Measures**

We
include
in
this
Quarterly
Report
the
non-
GAAP
financial
measures
EBITDA,
Adjusted
EBITDA

and
Distributable
Cash
Flow.
We
provide
reconciliations
of
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
to
Net
income
(loss)
attributable
to
partners,
our
most
directly
comparable
financial
performance
measure.

EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
are
used
as
supplemental
financial
measures
by
our
management
and
by
external
users

of
our
financial
statements
such
as
investors,
commercial
banks,
research
analysts
and
others,
to
assess:

- the
financial
performance
of
our
assets
without
regard
to
financing
methods,
capital
structure
or
historical
cost
basis;
- the
ability
of
our
assets
to
generate
cash
sufficient
to
pay
interest
costs
and
support
our
indebtedness;

- our operating performance and return on capital as compared to those of other companies in our industry, without regard to financing or capital structure; and
- the viability of acquisitions and capital expenditure projects and the overall rates of return on alternative investment opportunities.

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• the
financial
performance Table
of
our
assets
without
regard

to
financing
methods,
capital
structure
or
historical
cost
basis; Contents

- the
ability
of
our
assets
to
generate
cash
sufficient
to
pay
interest
costs
and
support
our
indebtedness;

- our
operating
performance
and
return
on
capital
as
compared
to
those
of
other
companies
in
our
industry,
without
regard
to
financing
or
capital
structure;
and

- the
viability
of
acquisitions
and
capital

expenditure
projects
and
the
overall
rates
of
return
on
alternative
investment
opportunities.

Management
believes
that
these
non-
GAAP
measures
are
useful
to
analysts
and
investors
as
they
exclude
transactions
not
related
to
our
core
cash
operating
activities
and
provide
metrics
to
analyze
our
ability
to
pay
interest
to
our
noteholders.
However,
the

*indentures
governing
our
senior
notes
contain
covenants
that,
among
other
things,
restrict
our
ability
to
pay
distributions.
We
believe
that
excluding
these
transactions
allows
investors
to
meaningfully
analyze
trends
and
performance
of
our
core
cash
operations.*

*We
define
EBITDA
for
any
period
as
net
income*

(loss)
attributable
to
partners
plus
interest
expense
(including
amortization
of
debt
issuance
costs),
income
taxes
and
depreciation
and
amortization.
Historically,
we
considered
net
income
(loss)
to
be
the
most
directly
comparable
GAAP
measure
to
EBITDA.
Commencing
with
the
third
quarter
of
2022,
we
reported
net
loss
attributable
to
noncontrolling
interest

*related
to
the
preferred
equity
investment
from
Warburg
Pincus
in
the
Montana
Renewables
business.
As
a
result
of
this
change,
we
believe
net
income
(loss)
attributable
to
partners
is
the
most
directly
comparable
GAAP
measure
to
EBITDA.

We
define
Adjusted
EBITDA
for
any
period
as
EBITDA
adjusted
for
(a) impairment;*

*(b) unrealized
gains
and
losses
from
mark-
to-
market
accounting
for
hedging
activities;
(c) realized
gains
and
losses
under
derivative
instruments
excluded
from
the
determination
of
net
income
(loss)
attributable
to
partners;
(d) non-
cash
equity-
based
compensation
expense
and
other
non-
cash
items
(excluding
items
such
as
accruals
of
cash
expenses
in*

a
future
period
or
amortization
of
a
prepaid
cash
expense)
that
were
deducted
in
computing
net
income
(loss)
attributable
to
partners;
(e) debt
refinancing
fees,
extinguishment
costs,
premiums
and
penalties;
(f) any
net
gain
or
loss
realized
in
connection
with
an
asset
sale
that
was
deducted
in
computing
net
income
(loss)
attributable

to
partners;
(g) amortization
of
turnaround
costs;
(h) LCM
inventory
adjustments;
(i) the
impact
of
liquidation
of
inventory
layers
calculated
using
the
LIFO
method;
(j) RINs
mark-
to-
market
adjustments;
and
(k) all
extraordinary,
unusual
or
non-
recurring
items
of
gain
or
loss,
or
revenue
or
expense.

We
define
*Distributable
Cash
Flow*
for
any

period
as
Adjusted
EBITDA
less
replacement
and
environmental
capital
expenditures,
turnaround
costs,
cash
interest
expense
(consolidated
interest
expense
less
non-
cash
interest
expense),
gain gain
(loss)
from
unconsolidated
affiliates,
net net
of
cash
distributions
and
income
tax
expense
(benefit).

We
define
Adjusted
EBITDA
Margin
as
Adjusted
EBITDA
divided
by
sales.

*The
definition
of
Adjusted
EBITDA
presented
in
this
Quarterly
Report
is
similar
to
the
calculation
of
“Consolidated
Cash
Flow”
contained
in
the
indentures
governing
our
Senior
Notes (as
defined
in
this
Quarterly
Report)
and
the
calculation
of
“Consolidated
EBITDA”
contained
in
the
Credit
Agreement.
We
are
required
to
report
Consolidated
Cash*

Flow
to
the
holders
of
our
Senior
Notes and
Consolidated
EBITDA
to
the
lenders
under
our
revolving
credit
facility,
and
these
measures
are
used
by
them
to
determine
our
compliance
with
certain
covenants
governing
those
debt
instruments.
Please
read
Note
8 -
"Long-
Term
Debt"
under
Part I,
Item
1
"Financial
Statements —
Notes to

Unaudited
Condensed
Consolidated
Financial
Statements"
in
this
Quarterly
Report
for
additional
details
regarding
the
covenants
governing
our
debt
instruments.

EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
should
not
be
considered
alternatives
to
Net
income
(loss),
Net
income
(loss)
attributable
to
partners
or
Operating
income
(loss)
or
any
other
measure

of
financial
performance
presented
in
accordance
with
GAAP.
In
evaluating
our
performance
as
measured
by
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow,
management
recognizes
and
considers
the
limitations
of
these
measurements.
EBITDA
and
Adjusted
EBITDA
do
not
reflect
our
liabilities
for
the
payment
of
income
taxes,
interest
expense
or
other

obligations
such
as
capital
expenditures.
Accordingly,
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
are
only
three
of
several
measurements
that
management
utilizes.
Moreover,
our
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow
may
not
be
comparable
to
similarly
titled
measures
of
another
company
because
all
companies
may
not
calculate
EBITDA,
Adjusted

EBITDA
and
Distributable
Cash
Flow
in
the
same
manner.

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The
following
tables
present
a
reconciliation
of
Net
income
(loss)
attributable
to
partners,
our
most
directly
comparable
GAAP
financial
performance
measure
to
EBITDA,
Adjusted
EBITDA
and
Distributable
Cash
Flow,
for

each
of
the
periods
indicated.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(In millions)			
Reconciliation of				
Net income (loss)				
attributable to				
partners to				
EBITDA, Adjusted				
EBITDA and				
Distributable Cash				
Flow:				
Net income (loss)				
attributable to				
partners	\$ (18.5)	\$ (15.3)	\$ 10.2	\$ (110.8)
Add:				
Interest				
expense	55.8	42.6	105.0	94.2
Depreciation				
and				
amortization	33.2	24.7	62.7	49.0
Income tax				
expense	0.4	0.6	0.9	1.3
Noncontrolling				
interest				
adjustments	(4.8)	—	(7.8)	—
EBITDA	<u>\$ 66.1</u>	<u>\$ 52.6</u>	<u>\$ 171.0</u>	<u>\$ 33.7</u>
Add:				
LCM / LIFO				
(gain) loss	\$ (5.8)	\$ (1.2)	\$ 13.9	\$ (7.2)
Unrealized				
(gain) loss on				
derivative				
instruments	(14.1)	53.5	(55.1)	75.6
Debt				
extinguishment				
costs	5.2	—	5.2	—
Amortization of				
turnaround				
costs	9.6	5.6	17.3	11.5
RINs mark-to-				
market (gain)				
loss	3.6	68.7	(42.5)	78.1

Equity-based compensation and other items	(0.3)	(3.4)	8.7	3.6
Other non-recurring expenses ⁽¹⁾	3.6	—	33.1	3.8
Noncontrolling interest adjustments	(0.2)	—	(6.2)	—
Adjusted EBITDA	<u>\$ 67.7</u>	<u>\$ 175.8</u>	<u>\$ 145.4</u>	<u>\$ 199.1</u>
Less:				
Replacement and environmental capital expenditures ⁽²⁾	\$ 14.5	\$ 18.2	\$ 31.7	\$ 26.8
Cash interest expense ⁽³⁾	54.6	31.6	102.3	79.1
Turnaround costs	6.0	7.7	13.1	17.5
Income tax expense	0.4	0.6	0.9	1.3
Distributable Cash Flow	<u>\$ (7.8)</u>	<u>\$ 117.7</u>	<u>\$ (2.6)</u>	<u>\$ 74.4</u>

Three Months
Ended March
31,
2023 2022
(In millions)

Reconciliation of Net income (loss) attributable to partners to EBITDA, Adjusted EBITDA and Distributable Cash Flow:

Net income (loss) attributable to partners \$ 28.7 \$(95.5)

Add:

Interest expense	49.2	51.6
Depreciation and amortization	29.5	24.3
Income tax expense	0.5	0.7
Noncontrolling interest adjustments	(3.0)	—

EBITDA	<u>\$104.9</u>	<u>\$(18.9)</u>
Add:		
LCM / LIFO		
(gain) loss	\$ 19.7	\$ (6.0)
Unrealized		
(gain) loss on		
derivative		
instruments	(41.0)	22.1
Amortization of		
turnaround		
costs	7.7	5.9
RINs mark-to-		
market (gain)		
loss	(46.1)	9.4
Equity-based		
compensation		
and other items	9.0	7.0
Other non-		
recurring		
expenses ⁽¹⁾	29.5	3.8
Noncontrolling		
interest		
adjustments	(6.0)	—
Adjusted EBITDA	<u>\$ 77.7</u>	<u>\$ 23.3</u>
Less:		
Replacement		
and		
environmental		
capital		
expenditures ⁽²⁾	\$ 17.2	\$ 8.6
Cash interest		
expense ⁽³⁾	47.7	47.5
Turnaround		
costs	7.1	9.8
Income tax		
expense	0.5	0.7
Distributable Cash	<u></u>	<u></u>
Flow	<u>\$ 5.2</u>	<u>\$(43.3)</u>

(1)

For
the
six
months
ended
June
30,
2023,
other
non-
recurring
expenses
included
a
\$28.4
million
charge
to
cost
of
sales
for
losses
under
firm
purchase
commitments.

(2) Replacement capital expenditures are defined as those capital expenditures which do not increase operating capacity or reduce operating costs and exclude turnaround costs. Environmental capital expenditures include asset additions to meet or exceed environmental and operating regulations.

(3) Represents consolidated interest expense less non-cash interest expense.

(1) For the three months ended March 31, 2023, other non-recurring expenses

included
a
\$28.4
million
charge
to
cost
of
sales
for
losses
under
firm
purchase
commitments.

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- (2) Replacement
capital
expenditures
are
defined
as
those
capital
expenditures
which
do
not
increase
operating
capacity
or
reduce
operating
costs
and
exclude
turnaround
costs.
Environmental
capital
expenditures
include
asset
additions
to
meet
or
exceed
environmental
and
operating
regulations.
- (3) Represents
consolidated
interest

expense
less
non-
cash
interest
expense.

—

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Changes

in

Results

of

Operations

for

the

Three

Months

Ended

March

31,

2023 June

30,

2023

and

2022

Sales.

Sales

decreased

\$61.0

million\$406.2

million,

or

5.6%28.5%,

to

\$1,036.9

million

in \$1,017.8

million

in

the

three months

ended

March

31,

2023 June
30,
2023,
from
\$1,097.9
million \$1,424.0
million
in
the
same
period
in
2022.
Sales
for
each
of
our
principal
product
categories
in
these
periods
were
as
follows:

Three Months Ended June 30,				
	2023		2022	% Change
(In millions, except barrel and per barrel data)				
Sales by segment:				
Specialty Products and Solutions:				
Lubricating oils	\$ 186.3	\$	245.3	(24.1)%
Solvents	96.2		120.6	(20.2)%
Waxes	40.2		49.8	(19.3)%
Fuels, asphalt and other by-products ⁽¹⁾	361.4		563.5	(35.9)%
Total Specialty Products and Solutions	\$ 684.1	\$	979.2	(30.1)%
Total Specialty Products and Solutions sales volume (in barrels)	5,296,000		5,606,000	(5.5)%
Average Specialty Products and Solutions sales price per barrel	\$ 129.17	\$	174.67	(26.0)%

<i>Montana/Renewables:</i>			
<i>Gasoline</i>	\$ 40.7	\$ 67.8	(40.0)%
<i>Diesel</i>	35.9	180.8	(80.1)%
<i>Jet Fuel</i>	5.6	14.8	(62.2)%
<i>Asphalt, heavy fuel oils and other (2)</i>	37.8	101.3	(62.7)%
<i>Renewable fuels</i>	128.2	—	100.0 %
<i>Total</i>			
<i>Montana/Renewables</i>	\$ 248.2	\$ 364.7	(31.9)%
<i>Total</i>			
<i>Montana/Renewables</i>			
<i>sales volume (in barrels)</i>	1,779,000	2,581,000	(31.1)%
<i>Average</i>			
<i>Montana/Renewables</i>			
<i>sales price per barrel</i>	\$ 139.52	\$ 141.30	(1.3)%
<i>Performance Brands:</i>			
<i>Total Performance Brands (3)</i>	\$ 85.5	\$ 80.1	6.7 %
<i>Total Performance Brands sales volume (in barrels)</i>	139,000	142,000	(2.1)%
<i>Average Performance Brands sales price per barrel</i>	\$ 615.11	\$ 564.08	9.0 %
<i>Total sales</i>	\$ 1,017.8	\$ 1,424.0	(28.5)%
<i>Total sales volume (in barrels)</i>	7,214,000	8,329,000	(13.4)%

Three Months Ended March 31,

2023	2022	% Change

(Dollars in millions, except barrel and per barrel data)

Sales by segment:

Specialty Products and Solutions:

<i>Lubricating oils</i>	\$ 215.2	\$ 209.5	2.7 %
<i>Solvents</i>	106.6	92.0	15.9 %
<i>Waxes</i>	44.2	44.5	(0.7)%
<i>Fuels, asphalt and other by-products (1)</i>	372.7	423.4	(12.0)%
<i>Total Specialty Products and Solutions</i>	\$ 738.7	\$ 769.4	(4.0)%
<i>Total Specialty Products and Solutions sales volume (in barrels)</i>	5,179,000	5,517,000	(6.1)%

<i>Average Specialty</i>			
<i>Products and</i>			
<i>Solutions sales price</i>			
<i>per barrel</i>	\$ 142.63	\$ 139.46	2.3 %
<i>Montana/Renewables:</i>			
<i>Gasoline</i>	\$ 42.9	\$ 58.6	(26.8)%
<i>Diesel</i>	32.9	116.5	(71.8)%
<i>Jet Fuel</i>	4.9	11.4	(57.0)%
<i>Asphalt, heavy fuel</i>			
<i>oils and other ⁽²⁾</i>	20.1	68.8	(70.8)%
<i>Renewable fuels</i>	118.6	—	100.0 %
<i>Total</i>			
<i>Montana/Renewables</i>	\$ 219.4	\$ 255.3	(14.1)%
<i>Total</i>			
<i>Montana/Renewables</i>			
<i>sales volume (in</i>			
<i>barrels)</i>	1,611,000	2,488,000	(35.2)%
<i>Average</i>			
<i>Montana/Renewables</i>			
<i>sales price per barrel</i>	\$ 136.19	\$ 102.61	32.7 %
<i>Performance Brands:</i>			
<i>Total Performance</i>			
<i>Brands ⁽³⁾</i>	\$ 78.8	\$ 73.2	7.7 %
<i>Total Performance</i>			
<i>Brands sales volume</i>			
<i>(in barrels)</i>	127,000	133,000	(4.5)%
<i>Average Performance</i>			
<i>Brands sales price per</i>			
<i>barrel</i>	\$ 620.47	\$ 550.38	12.7 %
<i>Total sales</i>	\$ 1,036.9	\$ 1,097.9	(5.6)%
<i>Total Specialty</i>			
<i>Products and</i>			
<i>Solutions,</i>			
<i>Montana/Renewables,</i>			
<i>and Performance</i>			
<i>Brands sales volume</i>			
<i>(in barrels)</i>	6,917,000	8,138,000	(15.0)%

(1)

Represents
(a) by-
products,
including
fuels
and
asphalt,
produced
in
connection
with
the
production
of
specialty
products
at
the
Princeton
and
Cotton
Valley
facilities
and
Dickinson
and
Karns
City
facilities,
(b) polyolester
synthetic
lubricants
produced
at
the
Missouri
facility,
and
(c) fuels
products
produced
at
the
Shreveport
facility.

(2) Represents
asphalt,
heavy
fuel
oils
and
other
products
produced
in
connection
with
the
production
of
fuels
at
the
Great
Falls
specialty
asphalt
facility.

(3) Represents
packaged
and
synthetic
specialty
products
at
the
Royal
Purple,
Bel-
Ray
and
Calumet
Packaging
facilities.

(1) Represents
(a)
by-
products,
including
fuels
and
asphalt,
produced
in
connection
with
the
production
of
specialty
products
at
the
Princeton

and
Cotton
Valley
facilities
and
Dickinson
and
Karns
City
facilities,
(b)
polyolester
synthetic
lubricants
produced
at
the
Missouri
facility,
and
(c)
fuels
products
produced
at
the
Shreveport
facility.

(2) Represents
asphalt,
heavy
fuel
oils
and
other
products
produced
in
connection
with
the
production
of
fuels
at
the
Great
Falls
specialty
asphalt
facility.

(3) Represents
packaged
and
synthetic
specialty
products
at
the
Royal

Purple,
Bel-
Ray
and
Calumet
Packaging
facilities.

The
components
olof
the
\$30.7
million \$295.1
million
decrease
in
Specialty
Products Specialty
Products
and
Solutions
segment
sales
for
the
three months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
three months
ended
March
31,
2022 June
30,
2022,
were
as
follows:

	Dollar Change
	(In millions)
	(47.1)
Volume	\$ (54.2)

Sales	
price	(240.9)
Total	
Specialty	
Products	
and	
Solutions	
segment	
sales	(30.7)
decrease	\$ (295.1)

Specialty
Products
and
Solutions
segment
sales
decreased
period
over
period,
primarily
due
to
lower
prices
as
market
prices
have
slowly
regressed
from
the
record
high
price
environment
experienced
in
the
prior
year
comparative
period.

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The
unfavorable
volumes
impact
was
the
result
of
a
planned
turnaround
at
our
Cotton
Valley
facility,
coupled
with
unplanned
outages
as
a
result
of
a
small
turnaround
at
our
Shreveport
facility the
severe
weather
experienced
in
Northwest
Louisiana
throughout
the
current
year
period.
This
impact
was
partially

offset
by
the
higher
price
environment
in
the
current
year
period.

second
quarter
of
2023.

The
components
of
the
\$35.9
million \$116.5
million
decrease
in
Montana/Renewables
segment
sales
for
the
three months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
three months
ended
March
31,
2022 June
30,

2022,
were
as
follows:

		Dollar Change
		(In millions)
Volume		(90.0)
Sales price		\$ (3.4)
Sales price		
Volume		(113.1)
Total		
Montana/Renewables		
segment	sales	(35.9)
decrease		\$ (116.5)

Montana/Renewables
segment
sales
decreased
due
to
lower
volumes
as
a
result
of
the
start-
up
of
the
Montana
Renewables
facility
and
the
impact
of
modifying
our
legacy
Great
Falls
specialty
asphalt
plant
to

operate
at
a
new
and
lower
nameplate
capacity.
Ramp-
up
of
operations
at
our
Montana
Renewables
facility
continued
in
the
second
quarter
of
2023
and
the
facility
achieved
designed
throughput
capacity.
The
unfavorable
impact
resulting
from
a
lower
price
environment
for
our
legacy
products
was
nearly
off-
set
by
sales

of
higher
priced
renewable
fuels
in
the
current
year
period.

The
components
of
the
\$5.4
million
increase
in
Performance
Brands
segment
sales
for
the
three months
ended
June
30,
2023,
as
compared
to
the
three months
ended
June
30,
2022,
were
as
follows:

	<u>Dollar Change</u>
	<u>(In millions)</u>
Volume	\$ (2.1)
Sales price	<u>7.5</u>
	<u> </u>

Total
Performance
Brands
segment
sales
increase \$ 5.4

Performance
Brands
segment
sales
increased
primarily
due
to
increases
in
product
prices.

Gross
Profit.
Gross
profit
decreased
\$72.5
million,
or
50.4%,
to
\$71.4
million
in
the
three months
ended
June
30,
2023,
from
\$143.9
million
in
the
same
period
in
2022.
Gross
profit

for
our
business
segments
were
as
follows:

Three Months Ended June 30,				
	2023	2022	% Change	
(Dollars in millions, except per barrel data)				
Gross profit by segment:				
Specialty Products and Solutions:				
Gross profit	\$ 45.3	\$ 88.1	(48.6)%	
Percentage of sales	6.6 %	9.0 %	(2.4)%	
Specialty Products and Solutions gross profit per barrel				
	\$ 8.55	\$ 15.72	(45.6)%	
Montana/Renewables:				
Gross profit	\$ 4.7	\$ 41.6	(88.7)%	
Percentage of sales	1.9 %	11.4 %	(9.5)%	
Montana/Renewables gross profit per barrel				
	\$ 2.64	\$ 16.12	(83.6)%	
Performance Brands:				
Gross profit	\$ 21.4	\$ 14.2	50.7 %	
Percentage of sales	25.0 %	17.7 %	7.3 %	
Performance Brands gross profit per barrel				
	\$ 153.96	\$ 100.00	54.0 %	
Total gross profit	\$ 71.4	\$ 143.9	(50.4)%	
Percentage of sales	7.0 %	10.1 %	(3.1)%	

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of
Contents

The
components
of
the
\$42.8
million

decrease
in
Specialty
Products
and
Solutions
segment
gross
profit
for
the
three months
ended
June
30,
2023,
as
compared
to
the
three months
ended
June
30,
2022,
were
as
follows:

		<u>Dollar Change</u>
		<u>(In millions)</u>
Three months ended June 30, 2022 reported gross profit	\$	88.1
Cost of materials LCM / LIFO inventory adjustments		199.1
Volumes		(1.5)
Operating costs		(12.0)
RINs expense		(21.3)
Sales price		33.8
		<u>(240.9)</u>

Three
months
ended June
30, 2023
reported
gross profit \$ 45.3

The
decrease
in
Specialty
Products
and
Solutions
segment
gross
profit
for
the
three months
ended
June
30,
2023
as
compared
to
the
same
period
in
2022,
was
primarily
due
to
lower
specialties
and
fuels
unit
margins
as
a
result
of
the
weaker
margin
environment

experienced
during
the
current year
period.
This
was
coupled
with
the
unfavorable
impacts
of
lower
volumes
and
higher
operating
costs
as
a
combined
result
of
the
planned
turnaround
completed
at
our
Cotton
Valley
facility
in
the
current
quarter
and
unplanned
outages
caused
by
the
severe
weather
in
Northwest
Louisiana
throughout
the

second quarter of 2023.

The components of the \$36.9 million decrease in Montana/Renewables segment gross profit for the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, were as follows:

	<u>Dollar Change</u> <u>(In millions)</u>	
Three months ended June 30, 2022 reported gross profit	\$	41.6
Cost of materials LCM / LIFO inventory adjustments		(9.1) 6.8

Volumes	(32.9)
RINs	
expense	23.7
Operating	
costs	(22.0)
Sales price	<u>(3.4)</u>
Three	
months	
ended June	
30, 2023	
reported	
gross profit	<u>\$ 4.7</u>

The
 decrease
 in
 Montana/Renewables
 segment
 gross
 profit
 for
 the
 three months
 ended
 June
 30,
 2023,
 as
 compared
 to
 the
 same
 period
 in
 2022,
 was
 primarily
 due
 to
 lower
 production
 volumes
 and
 higher
 operating
 costs
 associated
 with
 the
 start-

up
of
the
Montana
Renewables
facility
and
the
impact
of
modifying
of
our
legacy
Great
Falls
specialty
asphalt
facility
to
operate
at
a
new
and
lower
nameplate
capacity.
The
unfavorable
material
cost
impact
was
the
result
of
procuring
higher
priced
renewable
feedstocks
to
support
the
operations
at
our
Montana
Renewables

facility.
With
the
successful
start-
up
of
our
feedstock
pre-
treatment
unit
in
the
current
quarter,
we
expect
to
rotate
our
current
feedstock
mix
from
treated
safety
stocks
to
more
cost
advantaged
untreated
feedstocks.

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The
components
of
the
\$7.2
million

increase
in
Performance
Brands
segment
gross
profit
for
the
three months
ended
June
30,
2023,
as
compared
to
the
three months
ended
June
30,
2022,
were
as
follows:

		<u>Dollar Change</u> (In millions)
Three months ended June 30, 2022 reported		
gross profit	\$	14.2
Sales price		7.5
Operating costs		(0.1)
LCM / LIFO inventory adjustments		(0.7)
Volume		(0.6)
Cost of materials		1.1
Three months ended June 30, 2023 reported		
gross profit	\$	<u>21.4</u>

The
increase
in
Performance
Brands
segment
gross
profit
for
the
three months
ended
June
30,
2023,
as
compared
to
the
same
period
in
2022,
was
primarily
driven
by
higher
unit
margins
as
a
result
of
input
costs
stabilizing
in
our
branded
and
consumer
markets.

General
and
administrative.
General
and

administrative
expenses
increased
\$4.8
million,
or
21.3%,
to
\$27.3
million
in
the
three months
ended
June
30,
2023,
from
\$22.5
million
in
the
same
period
in
2022.
The
increase
was
primarily
due
to
a
\$3.1
million
increase
in
equity-
based
compensation
related
expenses.
The
increase
in
equity-
based
compensation
related
expenses

were
primarily
the
result
of
an
increase
in
the
Company's
unit
price
in
the
current year
period
in
comparison
to
the
prior year
comparative
period.

Gain
(loss)
on
derivative
instruments.
There
was
a
\$14.3
million
gain
on
derivative
instruments
in
the
three months
ended
June
30,
2023,
compared
to
a
\$67.6
million

loss
in
the
same
period
in
2022.
The
change
was
primarily
driven
by
a
\$12.7
million
unrealized
gain
for
our
fuel
derivative
contracts
in
the
current
quarter,
as
compared
to
a
\$42.6
million
unrealized
loss
for
the
fuel
derivative
contracts
that
were
outstanding
in
the
prior year
comparative
period.
In
addition

to
this,
the
Company
recorded
a
realized
loss
of
\$14.1
million
for
the
settlement
of
certain
fuel
derivative
contracts
in
the
prior
year
comparative
period.

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—

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Changes
in
Results
of
Operations
for
the
Six
Months
Ended
June
30,
2023
and
2022

Sales.
Sales
decreased
\$467.2
million,
or
18.5%,
to
\$2,054.7
million
in
the
six months
ended
June
30,
2023,
from
\$2,521.9
million
in
the
same
period
in
2022.
Sales
for
each
of
our
principal
product
categories
in
these
periods
were
as
follows:

Six Months Ended June 30,				
	2023		2022	% Change
(Dollars in millions, except barrel and per barrel data)				
Sales by segment:				
Specialty Products and Solutions:				
Lubricating oils	\$	401.4	\$	454.8 (11.7)%
Solvents		202.8		212.6 (4.6)%
Waxes		84.4		94.3 (10.5)%

Fuels, asphalt and other by-products (1)	734.2	986.9	(25.6)%
Total Specialty Products and Solutions	\$ 1,422.8	\$ 1,748.6	(18.6)%
Total Specialty Products and Solutions sales volume (in barrels)	10,475,000	11,123,000	(5.8)%
Average Specialty Products and Solutions sales price per barrel	\$ 135.83	\$ 157.21	(13.6)%
Montana/Renewables:			
Gasoline	\$ 83.6	\$ 126.4	(33.9)%
Diesel	68.8	297.3	(76.9)%
Jet Fuel	10.5	26.2	(59.9)%
Asphalt, heavy fuel oils and other (2)	57.9	170.1	(66.0)%
Renewable fuels	246.8	—	100.0 %
Total Montana/Renewables	\$ 467.6	\$ 620.0	(24.6)%
Total Montana/Renewables sales volume (in barrels)	3,390,000	5,069,000	(33.1)%
Average Montana/Renewables sales price per barrel	\$ 137.94	\$ 122.31	12.8 %
Performance Brands:			
Total Performance Brands (3)	\$ 164.3	\$ 153.3	7.2 %
Total Performance Brands sales volume (in barrels)	266,000	275,000	(3.3)%
Average Performance Brands sales price per barrel	\$ 617.67	\$ 557.45	10.8 %
Total sales	\$ 2,054.7	\$ 2,521.9	(18.5)%
Total Specialty Products and Solutions, Montana/Renewables, and Performance Brands sales volume (in barrels)	14,131,000	16,467,000	(14.2)%

-

(1) Represents
(a) by-
products,
including
fuels
and
asphalt,
produced
in
connection
with
the
production
of
specialty
products
at
the
Princeton
and
Cotton
Valley
facilities
and
Dickinson
and
Karns
City
facilities,
(b) polyolester
synthetic
lubricants
produced
at
the
Missouri
facility,
and
(c) fuels
products
produced
at
the
Shreveport
facility.

(2) Represents asphalt, heavy fuel oils and other products produced in connection with the production of fuels at the Great Falls specialty asphalt facility.

(3) Represents packaged and synthetic specialty products at the Royal Purple, Bel-Ray and Calumet Packaging facilities.

The components of the \$325.8 million decrease in Specialty Products and Solutions segment sales for the

six
months
ended
June
30,
2023,
as
compared
to
the
six
months
ended
June
30,
2022,
were
as
follows:

	<u>Dollar Change</u>
	<u>(In millions)</u>
Volume	\$ (101.9)
Sales	
price	(223.9)
Total	
Specialty	
Products	
and	
Solutions	
segment	
sales	
decrease	\$ (325.8)

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—

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Specialty
Products
and
Solutions
segment
sales
decreased

period
over
period.
primarily
due
to
the
weaker
price
environment
in
the
current
year
period
and
lower
throughput.
The
unfavorable
volumes
impact
was
due
to
planned
turnarounds
at
our
Shreveport
and
Cotton
Valley
facilities
in
the
current
year
period
and
unplanned
outages
as
a
result
of
the
severe
weather
experienced

in
Northwest
Louisiana
throughout
the
second
quarter
of
2023.

The
components
of
the \$152.4
million decrease

in
Montana/Renewables
segment
sales
for
the
six
months
ended
June
30,
2023,
as
compared
to
the
six
months
ended
June
30,
2022,
were
as
follows:

	<u>Dollar Change</u>
	<u>(In millions)</u>
Sales price	\$ 52.8
Volume	<u>(205.2)</u>
Total	
Montana/Renewables	
segment sales	
decrease	<u>\$ (152.4)</u>

Montana/Renewables
segment
sales
decreased
primarily
due
to
lower
volumes
as
a
result
of
the
start-
up
of
the
Montana
Renewables
facility
and
the
impact
of
modifying
our
legacy
Great
Falls
asphalt
plant
to
operate
at
a
new
and
lower
nameplate
capacity.
Lower
production
volumes
during
the
initial
start-
up
of

our
Montana
Renewables
facility
were
in-
line
with
our
sequential
commissioning
plans
for
the
facility.
We
achieved
designed
throughput
capacity
at
our
Montana
Renewables
facility
in
April the
second
quarter
of
2023.
This
impact
was These
impacts
were
partially
offset
by
higher
sales
prices
resulting
from
sales
of
higher
priced
renewable
fuels

in
the
current
year
period.

The
components
of
the
\$5.6
million \$11.0
million
increase
in
Performance Performance
Brands
segment segment
sales
for
the
three six
months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
three six
months
ended
March
31,
2022 June
30,
2022,
were
as
follows:

	<u>Dollar</u>	<u>Change</u>
	(In	millions)
Volume	\$	(3.6)
Sales price		9.2
Total		
Performance		
Brands		
segment		
sales		
increase	\$	5.6

	<u>Dollar Change</u>
	(In millions)
Sales price	\$ 16.7
Volume	(5.7)
Total	
Performance	
Brands	
segment	
sales	
increase	\$ 11.0

Performance
Brands
segment sales
increased primarily
due
to
increases
in
product
prices.

Gross
Profit.
Gross
profit increased
\$64.0
million decreased
\$8.5
million,
or
195.7% 4.8%,
to \$96.7
million.\$168.1
million in the
three six
months

ended
March
31,
2023 June
30,
2023,
from
\$32.7
million \$176.6
million
in
the
same
period
in
2022.
Gross
profit
(loss)
for
our our
business
segments
were
as
follows:

	Six Months Ended June 30,		
	2023	2022	% Change
(Dollars in millions, except per barrel data)			
Gross profit by segment:			
Specialty Products and Solutions:			
Gross profit	\$ 155.6	\$ 105.8	47.1 %
Percentage of sales	10.9 %	6.1 %	4.8 %
Specialty Products and Solutions gross profit per barrel	\$ 14.85	\$ 9.51	56.2 %
Montana/Renewables:			
Gross profit (loss)	\$ (32.5)	\$ 43.3	(175.1)%
Percentage of sales	(7.0)%	7.0 %	(14.0)%
Montana/Renewables gross profit (loss) per barrel	\$ (9.59)	\$ 8.54	(212.3)%
Performance Brands:			
Gross profit	\$ 45.0	\$ 27.5	63.6 %
Percentage of sales	27.4 %	17.9 %	9.5 %
Performance Brands gross profit per barrel	\$ 169.17	\$ 100.00	69.2 %
	=====	=====	

Total gross profit	\$ 168.1	\$ 176.6	(4.8)%
Percentage of sales	8.2 %	7.0 %	1.2 %

Three Months Ended March 31,				
	2023	2022	% Change	
(Dollars in millions, except per barrel data)				
Gross profit by segment:				
Specialty Products and Solutions:				
Gross profit	\$ 110.3	\$ 17.7	523.2 %	
Percentage of sales	14.9 %	2.3 %	12.6 %	
Specialty Products and Solutions gross profit per barrel	\$ 21.30	\$ 3.21	563.6 %	
Montana/Renewables:				
Gross profit (loss)	\$ (37.2)	\$ 1.7	(2,288.2)%	
Percentage of sales	(17.0)%	0.7 %	(17.7)%	
Montana/Renewables gross profit (loss) per barrel	\$ (23.09)	\$ 0.68	(3,495.6)%	
Performance Brands:				
Gross profit	\$ 23.6	\$ 13.3	77.4 %	
Percentage of sales	29.9 %	18.2 %	11.7 %	
Performance Brands gross profit per barrel	\$ 185.83	\$ 100.00	85.8 %	
Total gross profit	<u>\$ 96.7</u>	<u>\$ 32.7</u>	195.7 %	
Percentage of sales	9.3 %	3.0 %	6.3 %	

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Table
of
Contents

The
components
of the
\$92.6
million\$49.8
million
increase
in

Specialty Specialty

Products

and

Solutions

segment

gross

profit

for

the

three six

months

ended

March

31,

2023 June

30,

2023,

as

compared

to

the

three six

months

ended

March

31,

2022 June

30,

2022,

were

as

follows:

	<u>Dollar</u>
	<u>Change</u>
	(In
	millions)
Three months ended March 31, 2022 reported gross profit	\$ 17.7
Cost of materials	57.0
Operating costs	(5.4)
LCM / LIFO inventory adjustments	(4.6)
Volumes	(8.0)
Sales price	16.5
RINs expense	37.1
Three months ended March 31, 2023 reported gross profit	\$ 110.3

	<u>Dollar Change</u>
	(In millions)
Six months ended June 30, 2022 reported gross profit	\$ 105.8
Cost of materials	255.8
Operating costs	(26.8)
LCM / LIFO inventory adjustments	(6.0)
Volumes	(20.2)
Sales price	(223.9)
RINs expense	70.9
Six months ended June 30, 2023 reported gross profit	\$ 155.6

The
increase in
Specialty
Products
and
Solutions Solutions
segment
gross
profit
for
the
three six
months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
same
period
in
2022,
was
primarily
due
to
stronger
specialties
and
fuels
unit
margins
as
a
result
of
strong
market
demand
and
the
strong
margin
environment
experienced

during
the
current
year
period.
This
impact
was
partially
offset
by
higher
operating
expenses
and
lower
volumes
in
the
current
year
period
as
a
result
of
a
small
turnaround planned
turnarounds
completed
at
our
Shreveport
facility, and
Cotton
Valley
facilities
and
unplanned
outages
as
a
result
of
the
severe
weather
experienced
in

Northwest
Louisiana
throughout
the
second
quarter
of
2023.

The
components
of
the
\$38.9
million \$75.8
million decrease in
Montana/Renewables
segment
gross
profit
(loss)
for
the three six
months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
three six
months
ended
March
31,
2022 June
30,
2022,
were
as
follows:

	<u>Dollar</u>	<u>Change</u>
	(In	millions)
Three months ended March 31, 2022 reported gross profit	\$	1.7
Cost of materials		(32.0)
Loss on firm purchase commitments		(28.4)
LCM / LIFO inventory adjustments		(19.5)
Volumes		(15.9)
Operating costs		(19.7)
RINs expense		22.6
Sales price		54.0
Three months ended March 31, 2023 reported gross profit (loss)	\$	(37.2)

	<u>Dollar Change</u>
	(In millions)
Six months ended June 30, 2022 reported gross profit	\$ 43.3
Cost of materials	(42.1)
Loss on firm purchase commitments	(28.4)
LCM / LIFO inventory adjustments	(12.7)
Volumes	(50.0)
RINs expense	46.3
Operating costs	(41.7)
Sales price	52.8

Six months	
ended June	
30, 2023	
reported	
gross profit	
(loss)	\$ (32.5)

e
 The decrease
 in
 Montana/Renewables
 segment
 gross
 profit
 (loss)
 for
 the
 three six
 months
 ended
 March
 31,
 2023 June
 30,
 2023,
 as
 compared
 to
 the
 same
 period
 in
 2022,
 was
 primarily
 due
 to
 lower
 production
 volumes
 and
 higher
 operating
 costs
 associated
 with
 the
 start-
 up
 of

the
newly
commissioned
Montana
Renewables
facility
and
the
modification
of
our
legacy
Great
Falls
specialty
asphalt
facility.
This
impact
was
coupled
with
the
unfavorable
impact
of
a
charge
for
losses
under
firm
purchase
commitments
recorded
in
the
current
year
period.
These
impacts
were
partially
offset
by
higher
sales
prices
resulting

from
sales
of
higher
priced
renewable
fuels
in
the
current
year
period.

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The
components
of the
\$10.3
million
\$17.5
million increase in Performance
Brands
segment
gross
profit
for
the
three six
months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
three six
months

ended

March

31,

2022 June

30,

2022,

were

as

follows:

	<u>Dollar</u>	<u>Change</u>
	<u>(In</u>	<u>millions)</u>
Three months ended March 31, 2022 reported gross profit	\$	13.3
Cost of materials		(1.0)
LCM / LIFO inventory adjustments		(1.6)
Volumes		(1.2)
Operating costs		4.9
Sales price		9.2
Three months ended March 31, 2023 reported gross profit	\$	23.6

	<u>Dollar Change</u>	<u>(In millions)</u>
Six months ended June 30, 2022 reported gross profit	\$	27.5
Sales price		16.7
Operating costs		4.7
LCM / LIFO inventory adjustments		(2.4)
Volume		(1.5)

Six months
ended June
30, 2023
reported
gross profit \$ 45.0

The increase
in
Performance
Brands
segment
gross
profit
for
the
three six
months
ended
March
31,
2023 June
30,
2023,
as
compared
to
the
same
period
in
2022,
was
primarily
driven
by
higher
unit
margins
as
a
result
of
input
costs
stabilizing
in
our
branded
and
consumer

markets.
The
favorable
impact
for
operating
costs
was
the
result
of
partial
receipt
of
proceeds
from
the
Company's
business
interruption
insurance
policy
recorded
in
the
current
year
period.

General
and
administrative.
administrative. General
and
administrative
expenses
increased
\$4.4
million \$9.2
million,
or
13.5% 16.7%,
to
\$37.0
million \$64.3
million

in
the
three six
months
ended
March
31,
2023 June
30,
2023,
from
\$32.6
million \$55.1
million
in
the
same
period
in
2022.
The
increase
was
primarily
due
to
a
\$3.2
million
increase
in
professional
services
fees
and
a
\$2.0
million \$5.1
million
increase
in
equity-
based
compensation
related
expenses.
The expenses
and
a
\$4.2

million
increase
in
professional
services
fees
were
primarily
related
to
IT
infrastructure
support
services, fees.
The
increase
in
equity-
based
compensation
related
expenses
were
primarily
the
result
of
an
increase
in
the
Company's
unit
price
in
the
current
year
period
in
comparison
to
the
prior
year
comparative
period.
The
increase
in

professional
services
fees
were
primarily
related
to
IT
infrastructure
support
services.

Gain
(loss)
on
derivative
instruments. ThereThere
was
a \$25.5
million \$39.8
million gain
on
derivative
instruments
in
the
three six
months
ended
March
31,
2023 June
30,
2023,
compared
to
a
\$22.1
million \$89.7
million
loss
in
the
same
period
in
2022.
The
change

was
primarily
driven
by
a
\$41.0
million
unrealized
gain,
mostly
related
to
the
fuel \$15.3
million
realized
loss
on
derivative
contracts instruments
in
the
current
quarter,
as year
period
was
primarily
due
to
the
settlement
of
our
crack
spread
swaps
positions
during
the
period.
The
unrealized
gain
on
derivative
instruments
was
primarily
the

result
of
a
\$51.5
million
unrealized
gain
on
crack
spread
swaps
positions,
coupled
with
the
unrealized
gain
on
the
inventory
financing
embedded
derivative
of
\$3.6
million
in
the
current
year
period,
compared
to
a
\$22.1
million an
unrealized
loss
of
\$30.1
million
in
the
prior
year
comparative
period.
This
impact
was

partially
offset
by
a
\$15.5
million
realized
loss
for
the
settlement
of
crack
spread
swap
positions
in
the
current
year
period.
There
were
no
settlements
of
derivative
positions
in
the
prior
year
comparative
period.

**Liquidity
and
Capital
Resources**

General

The
following
should
be
read
in
conjunction
with
"Management's

*Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations —
Liquidity
and
Capital
Resources”
included
under
Part II,
Item
7
in
our
2022
Annual
Report.
There
have
been
no
material
changes
in
that
information
other
than
as
discussed
below.
Also,
see
Note
7 —
“Inventory
Financing
Agreements”
and
Note
8 —
“Long-
Term*

Debt”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
in
this
Quarterly
Report
for
additional
discussions
related
to
our
Supply
and
Offtake
Agreements
and
our
long-
term
debt.

**Cash
Flows
from
Operating,
Investing
and
Financing
Activities**

We
believe
that
we
have
sufficient
liquid
assets,
cash

flow
from
operations,
borrowing
capacity
and
adequate
access
to
capital
markets
to
meet
our
financial
commitments,
debt
service
obligations
and
anticipated
capital
expenditures
for
at
least
the
next
12 months.
We
continue
to
seek
to
lower
our
operating
costs,
selling
expenses
and
general
and
administrative
expenses
as
a
means
to
further

improve
our
cash
flow
from
operations
with
the
objective
of
having
our
cash
flow
from
operations
support
all
of
our
capital
expenditures
and
interest
payments.
However,
we
are
subject
to
business
and
operational
risks
that
could
materially
adversely
affect
our
cash
flows.
A
material
decrease
in
our
cash
flow
from

operations
including
a
significant,
sudden
decrease
in
crude
oil
prices
would
likely
produce
a
corollary
effect
on
our
borrowing
capacity
under
our
revolving
credit
facility
and
potentially
our
ability
to
comply
with
the
covenants
under
our
revolving
credit
facility.
A
significant,
sudden
increase
in
crude
oil
prices,
if
sustained,
would

likely
result
in
increased
working

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—

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capital
requirements
which
would
be
funded
by
borrowings
under
our
revolving
credit
facility.
In
addition,
our
cash
flow
from
operations
may
be
impacted
by
the
timing
of
settlement
of
our
derivative
activities.
Gains
and
losses

from
derivative
instruments
that
do
not
qualify
as
cash
flow
hedges
are
recorded
in
unrealized
gain
(loss)
on
derivative
instruments
until
settlement
and
will
impact
operating
cash
flow
in
the
period
settled.

The
following
table
summarizes
our
primary
sources
and
uses
of
cash
in
each
of
the
periods
presented:

	Three Months Ended March 31,	
	2023	2022
	(In millions)	
Net cash used in operating activities	\$ (26.7)	\$ (2.9)
Net cash used in investing activities	(130.4)	(67.0)
Net cash provided by financing activities	<u>133.1</u>	<u>2.6</u>
Net decrease in cash and cash equivalents	<u>\$ (24.0)</u>	<u>\$ (67.3)</u>
	Six Months Ended June 30,	
	2023	2022
	(In millions)	
Net cash provided by (used) in operating activities	\$ (52.6)	\$ 86.8
Net cash used in investing activities	(208.2)	(178.6)
Net cash provided by (used in) financing activities	<u>268.2</u>	<u>(2.6)</u>
Net increase (decrease) in cash, cash equivalents and restricted cash	<u>\$ 7.4</u>	<u>\$ (94.4)</u>

Operating
Activities.
Operating
activities
Operating
activities
used
cash
of
\$26.7
million \$52.6
million
during
the
three six months
ended
March
31,
2023 June
30,
2023
compared
to
using providing
cash
of
\$2.9
million \$86.8
million
during
the
same
period
in
2022,
which 2022.
The
change
was
primarily
driven
by
an
increase
in
the
cash
required
for
working

capital
to
support
the
start-
up
of
production
at
our
Montana
Renewables
facility.
This
impact
was
partially
offset
by
an
increase
of
\$64.0
million
in
gross
profit
between
the
comparative
periods.

Investing
Activities.
Investing
activities
Investing
activities
used
cash
of
\$130.4
million \$208.2
million
during
the

three six months
ended
March
31,
2023 June
30,
2023
compared
to
a
use
of
cash
of
\$67.0
million \$178.6
million
during
the
same
period
in
2022.
The
change
is
related
to
an
increase
in
cash
expenditures
for
additions
to
property,
plant
and
equipment
in
the
current
quarter year
period
in
comparison
to
the
prior

year
quarter. year.
The
cash
expenditures
for
additions
to
property,
plant
and
equipment
in
both
periods
were
mainly
related
to
our
Montana
Renewables
project.

Financing
Activities.
Financing
activities
provided
cash
of
\$133.1
million \$268.2
million
in
the
three six months
ended
March
31,
2023 June
30,
2023
compared
to
providing using
cash
of
\$2.6
million

during
the
same
period
in
2022.
The
change
is
primarily
due
to
higher the
borrowings
under we
received
from
the
issuance
of
the
2028
Notes
and
the
MRL
Term
Loan
Credit
Agreement,
partially
offset
by
repayments
of
our
revolving
credit
facilities
to
support
our
capital
project
spending 2024
Secured
Notes
and
working

capital
requirements.

2025
Notes.

**Capital
Expenditures**

Our
property,
plant
and
equipment
capital
expenditure
requirements
consist
of
capital
improvement
expenditures,
replacement
capital
expenditures,
environmental
capital
expenditures
and
turnaround
capital
expenditures.
Capital
improvement
expenditures
include
the
acquisition
of
assets
to
grow
our
business,
facility
expansions,
or
capital
initiatives
that
reduce

operating
costs.
Replacement
capital
expenditures
replace
worn
out
or
obsolete
equipment
or
parts.
Environmental
capital
expenditures
include
asset
additions
to
meet
or
exceed
environmental
and
operating
regulations.
Turnaround
capital
expenditures
represent
capitalized
costs
associated
with
our
periodic
major
maintenance
and
repairs.

The
following
table
sets
forth
our
capital
improvement

expenditures,
replacement
capital
expenditures,
environmental
capital
expenditures
and
turnaround
capital
expenditures
in
each
of
the
periods
shown
(including
capitalized
interest):

	Six Months Ended June 30,	
	2023	2022
	(In millions)	
Capital improvement expenditures	\$ 176.5	\$ 152.0
Replacement capital expenditures	25.4	24.3
Environmental capital expenditures	6.3	2.5
Turnaround capital expenditures	13.1	17.5
Total	\$ 221.3	\$ 196.3

	Three Months Ended March 31,	
	2023	2022
	(In millions)	
Capital improvement expenditures	\$113.2	\$58.6
Replacement capital expenditures	13.7	6.9

Environmental capital expenditures	3.5	1.7
Turnaround capital expenditures	7.1	9.8
Total	<u>\$137.5</u>	<u>\$77.0</u>

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2023
Capital Spending Forecast

Excluding MRL capital expenditures, we are forecasting total capital expenditures of approximately \$125.0 million to \$145.0 million in 2023. In the first quarter six months of 2023, we commissioned a renewable

hydrogen
plant,
at
our
Montana
Renewables
facility.
During
April
of
2023,
we
completed
construction
of
the
feedstock
pre-
treatment
unit
and
SAF
unit
at
our
Montana
Renewables
facility.
We
financed
\$150.0
million
of
the
capital
expenditures
for
these
projects
through
our
Master
Lease
Agreement
with
Stonebriar.
We
anticipate
that
capital

expenditure
requirements
will
be
provided
primarily
through
cash
flow
from
operations,
cash
on
hand,
available
borrowings
under
our
credit
facilities
and
by
accessing
capital
markets
as
necessary.
Further,
we
continue
to
anticipate
that
capital
improvement
expenditure
requirements
will
be
funded
from
borrowings
under
our
credit
facilities
or
by
funding
accessed

through
capital
markets.
If
future
capital
expenditures
require
expenditures
in
excess
of
our
then-
current
cash
flow
from
operations
and
borrowing
availability
under
our
credit
facilities,
we
may
be
required
to
issue
debt
or
equity
securities
in
public
or
private
offerings
or
incur
additional
borrowings
under
bank
credit
facilities
to

meet
those
costs.

**Debt
and
Credit
Facilities**

As
of
March
31,
2023 June
30,
2023,
our
primary
debt
and
credit
instruments
consisted
of
the
following:

- \$500.0
million
senior
secured
revolving
credit
facility
maturing
in
January
2027
("revolving
credit
facility");

- \$90.0 million senior secured revolving credit facility, with the option to request additional commitments of up to \$15.0 million, maturing in November 2027 (the "MRL Revolving Credit Agreement");
- \$179.0 million of 9.25% Senior Secured First Lien Notes due 2024 ("2024 Secured Notes");
- \$413.5 million of 11.00% Senior Notes due 2025 ("2025 Notes");
- \$325.0 million of 8.125% Senior Notes due 2027 ("2027 Notes");

- \$325.0 million of 9.25% Senior Notes due 2028 ("2028 Notes");
- \$74.8 million of borrowings under our MRL Term Loan Credit Agreement; and
- \$385.1 million of financing through our MRL asset financing arrangements.
- \$500.0 million senior secured revolving credit facility maturing in January 2027 ("revolving credit facility");
- \$90.0 million senior secured revolving credit facility, with the option to request

additional commitments of up to \$15.0 million, maturing in November 2027 (the "MRL Revolving Credit Agreement");

- \$200.0 million of 9.25% Senior Secured First Lien Notes due 2024 ("2024 Secured Notes");

- \$513.5 million of 11.00% Senior Notes due 2025 ("2025 Notes");

- \$325.0 million of 8.125% Senior Notes due 2027 ("2027 Notes");

- \$388.1 million of financing through our MRL asset

financing
arrangements.

We
were
in
compliance
with
all
covenants
under
the
debt
instruments
in
place
as
of
March
31,
2023 June
30,
2023
and
believe
we
have
adequate
liquidity
to
conduct
our
business.

On
June
27,
2023,
the
Company
issued
and
sold
\$325.0 million
in
aggregate
principal

amount
of
2028
Notes,
in
a
private
placement
pursuant
to
Section
4(a)
(2) of
the
Securities
Act
to
eligible
purchasers
at
par.
The
Company
received
net
proceeds
of
\$319.1 million,
after
deducting
the
initial
purchasers'
discount
and
offering
expenses.
On
June
28,
2023,
the
Company
used
approximately
\$125.5
million
(excluding
accrued
and

unpaid
interest
and
related
expenses)
of
the
proceeds
from
the
offering
of
the
2028
Notes
to
fund
the
repurchase
of
(i)
approximately
\$21.0
million
in
aggregate
principal
amount
of
2024
Secured
Notes
and
(ii)
\$100.0
million
in
aggregate
principal
amount
of
the
2025
Notes
and
pay
related
premiums,
in
each

case,
in
connection
with
the
completion
of
the
Company's
tender
offers.
Please
refer
to
Note
8 —
"Long-
Term
Debt"
in
Part I,
Item
1
"Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements"
for
additional
information.

On
April
19,
2023,
MRL
and
MRHL
entered
into
the
MRL
Term
Loan
Credit
Agreement,

that
provides
for
a
\$75.0
million
term
loan
facility
with
a
maturity
date
of
April
19,
2028.
Please
refer
to
Note
15.8 —
“Subsequent
Events” “Long-
Term
Debt”
in
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
for
additional
information.

The
borrowing
base
on
our
credit
facilities
increased decreased

from
approximately
\$448.5
million \$500.0
million
as
of
March
31,
2022 June
30,
2022,
to
approximately
\$491.6
million \$486.9
million
at
March
31,
2023 June
30,
2023.
Our
borrowing
availability
decreased
from
approximately
\$401.7
million \$456.1
million
at
March
31,
2022 June
30,
2022,
to
approximately
\$233.7
million \$365.5
million
at
March
31,
2023 June
30,
2023.
Total

liquidity,
consisting
of
unrestricted
cash
and
available
funds
under
our
credit
facilities,
decreased
from
\$412.4
million \$470.1
million
at
March
31,
2022 June
30,
2022
to
\$244.9
million \$401.5
million
at
March
31,
2023 June
30,
2023.

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—

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Inventory
Financing

On
March
10,
2023,
MRL

and
Macquarie
entered
into
an
amendment
to
the
MRL
Supply
and
Offtake
Agreement
("SOA")
to
provide
that
agreement
will
expire
on
September
30,
2023.
In
connection
with
the
expiration
of
the
MRL
SOA,
MRL
will
winddown
activities
under
that
agreement.
MRL
intends
to
continue
to
improve
its
feedstock
purchasing
processes

and
to
optimize
those
processes
in
a
way
that
is
more
efficient
than
under
the
MRL
SOA.

On
March
20,
2023,
Macquarie
provided
notice
of
Macquarie's
election
of
its
right
to
terminate
the
Shreveport
SOA
and
the
Montana
SOA,
in
each
case
effective
December
31,
2023.
When
the
Shreveport

SOA
and
the
Montana
SOA
were
entered
into,
the
inventories
associated
with
such
agreements
were
taken
out
of
the
Company's
revolving
credit
facility
borrowing
base.
The
Company
intends
to
amend
its
revolving
credit
facility
to
re-
include
the
inventories,
subject
to
approval
by
the
lenders
under
the
revolving
credit
facility.

Please
refer
to
Note
7 -
“Inventory
Financing
Agreements”
in
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
for
additional
information
regarding
our
Supply
and
Offtake
Agreements.

**Short-
Term
Liquidity**

As
of
March
31,
2023 June
30,
2023,
our
principal
sources
of
short-
term
liquidity
were
(i) \$233.7
million

\$365.5

million

of

availability

under

our

credit

facilities,

(ii) inventory

financing

agreements

related

to

the

Great

Falls

facility,

Shreveport

facility,

and

Montana

Renewables

facility

and

(iii) \$11.2

million \$36.0

million

of

unrestricted

cash

on

hand. Borrowings

under

our

revolving

credit

facilities

can

be

used

for,

among

other

things,

working

capital,

capital

expenditures

and

other

lawful
partnership
purposes
including
acquisitions.
For
additional
information
regarding
our
revolving
credit
facilities,
see
Note
8 -
“Long-
Term
Debt”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
in
this
Quarterly
Report.

**Long-
Term
Financing**

In
addition
to
our
principal
sources
of
short-
term
liquidity
listed

above,
subject
to
market
conditions,
we
may
meet
our
cash
requirements
(other
than
distributions
of
Available
Cash
(as
defined
in
our
partnership
agreement)
to
our
common
unitholders)
through
the
issuance
of
long-
term
notes
or
additional
common
units.

From
time
to
time,
we
issue
long-
term
debt
securities
referred

to
as
our
senior
notes.
All
of
our
outstanding
senior
notes,
other
than
the
2024
Secured
Notes,
are
unsecured
obligations
that
rank
equally
with
all
of
our
other
senior
debt
obligations
to
the
extent
they
are
unsecured.
As
of
March
31,
2023 June
30,
2023,
we
had
\$200.0
million \$179.0
million
in

2024
Secured
Notes,
\$513.5
million \$413.5
million
in
2025
Notes,
\$325.0
million
in
2027
Notes,
and
\$325.0
million
in
2027 2028
Notes outstanding.
outstanding.
The
2024
Secured
Notes and
the
related
guarantees
are
secured
by
a
first
priority
lien
(subject
to
certain
exceptions)
on
all
the
fixed
assets
that
secure
our
obligations
under
the

secured
hedge
agreements,
as
governed
by
the
Collateral
Trust
Agreement,
which
governs
how
secured
hedging
counterparties
and
holders
of
the
2024
Secured
Notes share
collateral
pledged
as
security
for
the
payment
obligations
owed
by
us
to
the
secured
hedging
counterparties
under
their
respective
master
derivatives
contracts
and
the
holders
of
the

2024
Secured
Notes.
In
addition,
as
of
March
31,
2023 June
30,
2023,
we
had
\$388.1
million \$385.1
million
of
debt
outstanding
for
our
MRL
asset
financing
arrangements,
\$74.8
million
of
debt
outstanding
for
our
MRL
Term
Loan
Credit
Agreement
and
\$56.3
million \$54.5
million
of
other
debt
outstanding
for
the
Shreveport
terminal

asset
financing
arrangement.
Borrowings
under
the
MRL
asset
financing
arrangements
and
MRL
Term
Loan
Credit
Agreement
are
obligations
of
our
unrestricted
subsidiaries
MRL
and
MRHL
solely,
and
are
non-
recourse
to
the
Company
and
its
restricted
subsidiaries.

To
date,
our
debt
balances
have
not
adversely
affected
our
operations,
our

ability
to
repay
or
refinance
our
indebtedness.
Based
on
our
historical
record,
we
believe
that
our
capital
structure
will
continue
to
allow
us
to
achieve
our
business
objectives.

For
additional
information
regarding
our
senior
notes,
please
read
Note
8 —
“Long-
Term
Debt”
under
Part I,
Item
1
“Financial
Statements —
Notes to

Unaudited
Condensed
Consolidated
Financial
Statements"
in
this
Quarterly
Report
and

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Note
9 —
“Long-
Term
Debt”
in
Part II,
Item
8
“Financial
Statements
and
Supplementary
Data”
of
our
2022
Annual
Report.

**Master
Derivative
Contracts
and
Collateral
Trust
Agreement**

For
additional
discussion

regarding
our
master
derivative
contracts
and
collateral
trust
agreement,
see
“Master
Derivative
Contracts
and
Collateral
Trust
Agreement”
under
Part II,
Item
7
“Management’s
Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations”
of
our
2022
Annual
Report.

**Critical
Accounting
Estimates**

For
additional
discussion
regarding
our

*critical
accounting
estimates,
see
“Critical
Accounting
Estimates”
under
Part II,
Item
7
“Management’s
Discussion
and
Analysis
of
Financial
Condition
and
Results
of
Operations”
of
our
2022
Annual
Report.*

Item
3.
***Quantitative
and
Qualitative
Disclosures
About
Market
Risk***

*We
are
exposed
to
market
risks
from
adverse
changes*

in
commodity
prices,
the
price
of
credits
needed
to
comply
with
governmental
programs,
interest
rates
and
foreign
currency
exchange
rates.
Information
relating
to
quantitative
and
qualitative
disclosures
about
material
market
risk
is
set
forth
below.

Commodity

Price

Risk

Derivative

Instruments

We
are
exposed
to
price
risks
due
to

fluctuations
in
the
price
of
crude
oil,
refined
products
(primarily
in
our
fuel
products
segment),
natural
gas
and
precious
metals.
We
use
various
strategies
to
reduce
our
exposure
to
commodity
price
risk.
We
do
not
attempt
to
eliminate
all
of
our
risk
as
the
costs
of
such
actions
are
believed

to
be
too
high
in
relation
to
the
risk
posed
to
our
future
cash
flows,
earnings
and
liquidity.
The
strategies
we
use
to
reduce
our
risk
utilize
both
physical
forward
contracts
and
financially
settled
derivative
instruments,
such
as
swaps,
collars,
options
and
futures,
to
attempt
to
reduce
our
exposure
with

respect

to:

- crude oil purchases and sales;
- refined product sales and purchases;
- natural gas purchases;
- precious metals; and
- fluctuations in the value of crude oil between geographic regions and between the different types of crude oil such as NYMEX WTI, Light Louisiana Sweet, WCS, WTI Midland, Mixed Sweet Blend, Magellan East Houston and ICE Brent.
- crude oil

purchases
and
sales;

- refined
product
sales
and
purchases;

- natural
gas
purchases;

- precious
metals;
and

- fluctuations
in
the
value
of
crude
oil
between
geographic
regions
and
between
the
different
types
of
crude
oil
such
as
NYMEX
WTI,
Light
Louisiana
Sweet,
WCS,
WTI
Midland,
Mixed
Sweet
Blend,
Magellan
East
Houston
and
ICE
Brent.

We
manage
our
exposure
to
commodity

markets,
credit,
volumetric
and
liquidity
risks
to
manage
our
costs
and
volatility
of
cash
flows
as
conditions
warrant
or
opportunities
become
available.
These
risks
may
be
managed
in
a
variety
of
ways
that
may
include
the
use
of
derivative
instruments.
Derivative
instruments
may
be
used
for
the
purpose
of
mitigating

risks
associated
with
an
asset,
liability
and
anticipated
future
transactions
and
the
changes
in
fair
value
of
our
derivative
instruments
will
affect
our
earnings
and
cash
flows;
however,
such
changes
should
be
offset
by
price
or
rate
changes
related
to
the
underlying
commodity
or
financial
transaction
that
is
part
of

*the
risk
management
strategy.
We
do
not
speculate
with
derivative
instruments
or
other
contractual
arrangements
that
are
not
associated
with
our
business
objectives.
Speculation
is
defined
as
increasing
our
natural
position
above
the
maximum
position
of
our
physical
assets
or
trading
in
commodities,
currencies
or
other
risk
bearing
assets
that*

are
not
associated
with
our
business
activities
and
objectives.
Our
positions
are
monitored
routinely
by
a
risk
management
committee
and
discussed
with
the
board
of
directors
of
our
general
partner
quarterly
to
ensure
compliance
with
our
stated
risk
management
policy
and
documented

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*risk
management
strategies.
All
strategies
are
reviewed
on
an
ongoing
basis
by
our
risk
management
committee,
which
will
add,
remove
or
revise
strategies
in
anticipation
of
changes
in
market
conditions
and/or
in
risk
profiles.
These
changes
in
strategies
are
to
position
us
in
relation
to
our
risk
exposures*

*in
an
attempt
to
capture
market
opportunities
as
they
arise.*

*Please
read
Note
9 —
“Derivatives”
in
the
notes
to
our
unaudited
condensed
consolidated
financial
statements
under
Part I,
Item
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“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
for
a
discussion
of
the
accounting
treatment
for
the
various
types
of*

derivative
instruments,
for
a
further
discussion
of
our
hedging
policies
and
for
more
information
relating
to
our
implied
crack
spreads
of
crude
oil,
diesel,
and
gasoline
derivative
instruments.

Our
derivative
instruments
and
overall
hedging
positions
are
monitored
regularly
by
our
risk
management
committee,
which
includes
executive
officers.
The
risk

management
committee
reviews
market
information
and
our
hedging
positions
regularly
to
determine
if
additional
derivatives
activity
is
advised.
A
summary
of
derivative
positions
and
a
summary
of
hedging
strategy
are
presented
to
our
general
partner's
Board
of
Directors
quarterly.

Compliance

Price

Risk

Renewable

Identification

Numbers

We
are
exposed

to
market
risks
related
to
the
volatility
in
the
price
of
credits
needed
to
comply
with
governmental
programs.
The
EPA
sets
annual
volume
obligations
for
the percentage
of
renewable
fuels
that
must
be
blended
into
transportation
fuels
consumed
in
the
U.S.,
and
as
a
producer
of
transportation
fuels
from
petroleum,
we

are
subject
to
those
obligations.
To
the
extent
we
are
unable
to
physically
blend
renewable
fuels
to
satisfy
the
EPA
requirement,
we
may
purchase
RINs
in
the
open
market
to
satisfy
the
annual
obligations.
We
have
not
entered
into
any
derivative
instruments
to
manage
this
risk.

Holding
other
variables

related
to
RINs
obligations
constant,
a
\$1.00
increase
in
the
price
of
RINs
would
be
expected
to
have
a
negative
impact
on
Net
income
(loss)
of
approximately
\$65.0
million
per year.

**Interest
Rate
Risk**

Our
exposure
to
interest
rate
changes
on
fixed
and
variable
rate
debt

is
limited
to
the
fair
value
of
the
debt
issued,
which
would
not
have
a
material
impact
on
our
earnings
or
cash
flows.
The
following
table
provides
information
about
the
fair
value
of
our
fixed
and
variable
rate
debt
obligations
as
of
March
31,
2023 June
30,
2023
and
December
31,

2022,
which
we
disclose
in
Note
8 —
“Long-
Term
Debt”
and
Note
10 —
“Fair
Value
Measurements”
under
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements.”

	March 31, 2023		December 31, 2022	
	Fair		Fair	
	Value	Carrying Value	Value	Carrying Value
	(In millions)			
Financial Instrument:				
2024 Secured Notes	\$202.0	\$ 199.3	\$203.7	\$ 199.3
2025 Notes	\$529.6	\$ 509.6	\$536.1	\$ 509.2
2027 Notes	\$311.7	\$ 321.7	\$305.4	\$ 321.5
Revolving credit facility	\$226.0	\$ 223.1	\$104.0	\$ 100.9
MRL revolving credit facility	\$ 18.7	\$ 18.1	\$ —	\$ (0.6)
Shreveport terminal asset financing arrangement	\$ 56.3	\$ 55.5	\$ 58.2	\$ 57.2
MRL asset financing arrangements	\$388.1	\$ 386.9	\$370.1	\$ 368.8

	June 30, 2023		December 31, 2022	
	Fair Value	Carrying Value	Fair Value	Carrying Value
	(In millions)			
Financial				
Instrument:				
2024 Secured				
Notes	\$ 179.3	\$ 178.5	\$ 203.7	\$ 199.3
2025 Notes	\$ 429.3	\$ 410.8	\$ 536.1	\$ 509.2
2027 Notes	\$ 310.8	\$ 321.9	\$ 305.4	\$ 321.5
2028 Notes	\$ 320.2	\$ 319.3	\$ —	\$ —
Revolving				
credit facility	\$ 87.8	\$ 85.1	\$ 104.0	\$ 100.9
MRL				
revolving				
credit facility	\$ 18.5	\$ 18.0	\$ —	\$ (0.6)
MRL Term				
Loan Credit				
Agreement	\$ 74.8	\$ 71.8	\$ —	\$ —
Shreveport				
terminal asset				
financing				
arrangement	\$ 54.5	\$ 53.7	\$ 58.2	\$ 57.2
MRL asset				
financing				
arrangements	\$ 385.1	\$ 383.9	\$ 370.1	\$ 368.8

For
our
variable
rate
debt,
if
any,
changes
in
interest
rates
generally
do
not
impact
the
fair
value
of
the
debt
instrument
but
may

impact
our
future
earnings
and
cash
flows.
We
had
a
\$500.0
million
revolving
credit
facility
and
a
\$90.0
million
revolving
credit
facility
as
of
March
31,
2023 June
30,
2023,
with
borrowings
for
each
revolving
credit
facility
bearing
interest
at
the
prime

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■

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rate
or
SOFR,
at
our
option,
plus
the
applicable
margin.

In
addition,
we
had
\$74.8
million
of
borrowings
outstanding
under
our
MRL
Term
Loan
Credit
Agreement

as
of
June
30,
2023,
with
borrowings
bearing
interest
at
SOFR
plus
6.0%
to
7.3%
per
annum.

We
had
\$244.7
million \$181.1
million
of
outstanding

variable
rate
debt
as
of
March
31,
2023 June
30,
2023
and
\$104.0
million
of
outstanding
variable
rate
debt
as
of
December
31,
2022.
Holding
other
variables
constant
(such
as
debt
levels),
a
100
basis
point
change
in
interest
rates
on
our
variable
rate
debt
as
of
March
31,
2023 June
30,

2023,
would
be
expected
to
have
an
impact
on
Net
income
(loss)
of
approximately
\$2.4
million \$1.8
million
per year.

**Foreign
Currency
Risk**

We
have
minimal
exposure
to
foreign
currency
risk
and
as
such
the
cost
of
hedging
this
risk
is
viewed
to
be
in
excess
of
the
benefit
of
further

reductions
in
our
exposure
to
foreign
currency
exchange
rate
fluctuations.

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-

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Item
4.
Controls
and
Procedures

Evaluation
of
Disclosure
Controls
and
Procedures

As
required
by
Rule
13a-
15(b) of
the
Securities
Exchange
Act
of
1934,
as
amended
(the

*“Exchange
Act”),
we
have
evaluated,
under
the
supervision
and
with
the
participation
of
our
management,
including
our
principal
executive
officer
and
principal
financial
officer,
the
effectiveness
of
the
design
and
operation
of
our
disclosure
controls
and
procedures
(as
defined
in
Rules
13a-
15(e) and
15d-
15(e) under
the
Exchange
Act)
as
of*

the
end
of
the
period
covered
by
this
Quarterly
Report.
Our
disclosure
controls
and
procedures
are
designed
to
provide
reasonable
assurance
that
the
information
required
to
be
disclosed
by
us
in
reports
that
we
file
or
submit
under
the
Exchange
Act
is
accumulated
and
communicated
to
our
management,
including
our

*principal
executive
officer
and
principal
financial
officer,
as
appropriate,
to
allow
timely
decisions
regarding
required
disclosure
and
is
recorded,
processed,
summarized
and
reported
within
the
time
periods
specified
in
the
rules and
forms
of
the
SEC.
Based
upon
the
evaluation,
our
principal
executive
officer
and
principal
financial
officer
have
concluded
that*

our
disclosure
controls
and
procedures
were
effective
as
of
March
31,
2023 June
30,
2023.

Changes
in
Internal
Control
over
Financial
Reporting

No
changes
in
our
internal
control
over
financial
reporting
(as
defined
in
Rules
13a-
15(f) and
15d-
15(f) under
the
Exchange
Act)
occurred
during
the
fiscal
quarter
ended
March
31,

2023 June

30,

2023,

that

has

materially

affected,

or

is

reasonably

likely

to

materially

affect,

our

internal

control

over

financial

reporting.

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-

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PART II

Item

1.

Legal

Proceedings

We

are

not

a

party

to,

and

our

property

is

not

the
subject
of,
any
pending
legal
proceedings
other
than
ordinary
routine
litigation
incidental
to
our
business.
Our
operations
are
subject
to
a
variety
of
risks
and
disputes
normally
incidental
to
our
business.
As
a
result,
we
may,
at
any
given
time,
be
a
defendant
in
various
legal
proceedings
and
litigation

arising
in
the
ordinary
course
of
business.
The
information
provided
under
Note
6 —
“Commitments
and
Contingencies”
in
Part I,
Item
1
“Financial
Statements —
Notes to
Unaudited
Condensed
Consolidated
Financial
Statements”
is
incorporated
herein
by
reference.

Item
1A.
Risk
Factors

In
addition
to
the
other
information
set
forth
in
this
Quarterly
Report,

*you
should
carefully
consider
the
risks
discussed
in
Part I,
Item
1A
“Risk
Factors”
in
our
2022
Annual
Report.
Additional
risks
and
uncertainties
not
currently
known
to
us
or
that
we
currently
deem
to
be
immaterial
also
may
materially
adversely
affect
our
business,
financial
condition
or
future
results.
There
have
been*

no
material
changes
in
the
risk
factors
discussed
in
Part I,
Item
1A
“Risk
Factors”
in
our
2022
Annual
Report.

Item
2.
Unregistered
Sales
of
Equity
Securities
and
Use
of
Proceeds

None.

Item
3.
Defaults
Upon
Senior
Securities

None.

Item
4.
Mine
Safety
Disclosures

Not
applicable.

Item
5.
Other
Information

(c)
Trading
Plans
None.

None.

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-

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Item
6.
Exhibits

Exhibit

<u>Number</u>	<u>Description</u>
3.1	Certificate of Limited Partnership of Calumet Specialty Products Partners, L.P. (incorporated by reference to Exhibit 3.1 to the Registrant's Registration Statement on Form S-1 filed with the Commission on October 7, 2005 (File No. 333-128880)).

3.2 Amended and Restated Limited Partnership Agreement of Calumet Specialty Products Partners, L.P. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on February 13, 2006 (File No. 000-51734)).

3.3 Amendment No. 1 to the First Amended and Restated Agreement of Limited Partnership of Calumet Specialty Products Partners, L.P. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on July 11, 2006 (File No. 000-51734)).

3.4 Amendment No. 2 to First Amended and Restated Agreement of Limited Partnership of Calumet Specialty Products Partners, L.P. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on April 18, 2008 (File No. 000-51734)).

- 3.5 *Amendment No. 3 to First Amended and Restated Agreement of Limited Partnership of Calumet Specialty Products Partners, L.P. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on January 4, 2018 (File No. 000-51734)).*
- 3.6 *Certificate of Formation of Calumet GP, LLC (incorporated by reference to Exhibit 3.3 of Registrant's Registration Statement on Form S-1 filed with the Commission on October 7, 2005 (File No. 333-128880)).*
- 3.7 *Amended and Restated Limited Liability Company Agreement of Calumet GP, LLC (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the Commission on February 13, 2006 (File No. 000-51734)).*

10.1*4.1 Second

Amendment Indenture dated June 27, 2023, by and among Calumet Specialty Products Partners, L.P., Calumet Finance Corp., the guarantors party thereto and Wilmington Trust, National Association, as trustee (incorporated by reference to **Supply** Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed with the Commission on June 29, 2023 (File No. 000-51734)).

4.2 Form of 9.75% Senior Notes due 2028 (Included in Exhibit 4.1).

10.1* Credit Agreement dated April 19, 2023, among Montana Renewables, LLC, as Borrower, Montana Renewable Holdings, LLC, as Holdings, the lenders from time to time party hereto, and Offtake Delaware Trust Company, as Administrative Agent.

10.2* Collateral Trust and
Intercreditor Agreement
dated as of March 10,
2023 April 19, 2023,
among Montana
Renewables Holdings
LLC, as Holdings,
Montana Renewables,
LLC, as Company, the
Other Obligors from
time to time party
hereto, Delaware Trust
Company, as
Administrative Agent,
the Other Parity Lien
Representatives, from
time to time party
thereto, and Wilmington
Trust, National
Association, as
Collateral Trustee.

10.3* Amendment No. 1 to
Credit Agreement, dated
as of April 4, 2023, by
and between Macquarie
Energy North America
Trading, Inc. and among
Montana Renewables,
LLC, LLC, Montana
Renewables Holdings
LLC and Wells Fargo
Bank, National
Association, as agent
and lender.

10.2* 10.4* Change of Control Protection Plan, effective Amendment No. 2 to Credit Agreement and Amendment No. 1 to Guaranty and Security Agreement, dated as of March 13, 2023, April 19, 2023, by and among Montana Renewables, LLC, Montana Renewables Holdings LLC and Wells Fargo Bank, National Association, as agent and lender.

31.1 10.5** Amendment No. 3 to Credit Agreement, dated as of July 26, 2023, by and among Montana Renewables, LLC, Montana Renewables Holdings LLC and Wells Fargo Bank, National Association, as agent and lender.

31.1* Sarbanes-Oxley Section 302 certification of Todd Borgmann.

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■

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31.2 31.2** Sarbanes-
Oxley
Section
302
certification
of Vincent
Donargo.

32.1** Section
1350
certification
of Todd
Borgmann
and
Vincent
Donargo.

100.INS* Inline XBRL
Instance
Document

101.SCH* Inline XBRL
Taxonomy
Extension
Schema
Document

101.CAL* Inline XBRL
Taxonomy
Extension
Calculation
Linkbase
Document

101.DEF* Inline XBRL
Taxonomy
Extension
Definition
Linkbase
Document

101.LAB* Inline XBRL
Taxonomy
Extension
Label
Linkbase
Document

101.PRE* Inline XBRL
Taxonomy
Extension
Presentation
Linkbase
Document

104* The cover
page from
the
Company's
Quarterly
Report on
Form 10-Q
for the
quarter
ended
March 31,
2023 June
30, 2023,
formatted in
Inline XBRL
(included
within the
Exhibit 101
attachments)

**
Furnished
herewith.

*
Filed
herewith.
**
Furnished
herewith.

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SIGNATURES

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SIGNATURES

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

**CALUMET
SPECIALTY
PRODUCTS
PARTNERS,
L.P.**

*Calumet
GP, LLC,
its general
By: partner*

Date:

August 4, /s/ Vincent

2023 By: Donargo

Vincent
Donargo
Executive
Vice
President
and Chief
Financial
Officer of
Calumet
GP, LLC
(Authorized
Person and
Principal
Financial
Officer)

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■

**Exhibit
10.1**

**CREDIT
AGREEMENT**

Dated
as
of
April
19, 2023

among

**MONTANA
RENEWABLES,
LLC,**

as
Borrower,

**MONTANA
RENEWABLE
HOLDINGS
LLC,**
as
Holdings,

**THE
LENDERS
FROM
TIME
TO
TIME
PARTY
HERETO,**

and

**DELAWARE
TRUST
COMPANY,**
as
Administrative
Agent

\$75,000,000

**Senior
Secured
Green
Term
Loan
Facility**

-

**Table
of
Contents
Page**

1

1





/

SECOND
AMENDMENT
TO SUPPLY
AND (i)
OFFTAKE

■

Page

/





(ii)

■

Page

(iii)

■

SCHEDULES

Schedule I

-

Commitments;

Applicable

Lending

Offices

Schedule II

-

Real

Estate

Documents

Schedule III

-

Disclosed

Liens

Schedule IV

-

Disclosed

Contractual

Obligations

Schedule V

-

RDU

Facility

Site

Schedule VI

-

Stonebriar

Property

Schedule VII

-

BNSF

Sublease

Property

Schedule VIII

-

Target

Debt

Balance

Amount

Schedule IX

-

Lease

Agreement

Property

Schedule X

-

Stonebriar

Escrowed
Property
Schedule
1.01(a)-
Mortgaged
Properties
Schedule
1.01(b)-
Material
Contracts
Schedule
5.01(b)-
Equity
Interests
Schedule
5.01(e)-
Governmental
Authorizations
Schedule
5.01(i)-
Adverse
Proceedings
Schedule
5.01(k)-
Environmental
Matters
Schedule
5.01(l)-
Labor
Schedule
5.01(cc)-
Transaction
with
Affiliates
Schedule
6.02(b)-
Permitted
Debt
Schedule
6.02(f)-
Existing
Investments
Schedule
6.02(j)-
Contractual
Obligations
Schedule
6.02(o)-
Existing

Affiliate
Transactions
Schedule
9.01(a)-
Notices

EXHIBITS

Exhibit A

-
Form
of
Assignment
and
Assumption

Exhibit B

-
Form
of
Note

Exhibit C

-
Form
of
Funding
Notice

Exhibit D

-
Form
of
Solvency
Certificate

Exhibit E

-
Form
of
Compliance
Certificate

Exhibit F

-
Form
of
Conversion/Continuation
Notice

Exhibit G-1

-
Form
of
U.S. Tax

Compliance
Certificate
Exhibit G-2

-
Form
of
U.S.
Tax

Compliance
Certificate
Exhibit G-3

-
Form
of
U.S.
Tax

Compliance
Certificate
Exhibit G-4

-
Form
of
U.S.
Tax

Compliance
Certificate
Exhibit H

-
Form
of
Prepayment
Notice

Exhibit I

-
Form
of
Operating
Report

(iv)

-

**CREDIT
AGREEMENT**

THIS
SECOND
AMENDMENT
TO
SUPPLY
AND
OFFTAKE

This
CREDIT
AGREEMENT,
dated
as
of
April
19, 2023
(this
“Second
Amendment Agreement”),
is
entered
into
by
and
among
MONTANA
RENEWABLES,
LLC,
a
Delaware
limited
liability
company
 (“Borrower”),
MONTANA
RENEWABLE
HOLDINGS
LLC,
a
Delaware
limited
liability
company
 (“Holdings”),
THE
LENDERS
FROM
TIME
TO
TIME

PARTY
HERETO,
and
DELAWARE
TRUST
COMPANY,
as
administrative
agent
for
the
Lenders
(in
such
capacity,
together
with
any
successor
Administrative
Agent
appointed
pursuant
to
Article
VIII
in
such
capacity,
the
"Administrative
Agent").

**PRELIMINARY
STATEMENTS:**

WHEREAS,
Borrower
owns
and
operates
a
renewable
diesel
facility
located
in
Great
Falls,
Montana
consisting

of
pretreatment
facilities,
a
renewable
diesel
unit,
a
renewable
hydrogen
unit,
tank
farms,
rail
systems,
wastewater
facilities,
real
property,
a
sustainable
aviation
fuel
expansion,
and
other
related
equipment
and
supporting
infrastructure
necessary
to
produce
renewable
diesel
and
jet
fuels
from
renewable
feedstock
(collectively,
the
"RDU
Facility.");

WHEREAS,

Borrower
has

requested
that
the
Lenders
establish
a
green
term
loan
facility,
the
proceeds
of
which
will
be
used
to
(i)
fund
Project
Costs,
(ii)
fund
the
Debt
Service
Reserve
Account
and
the
IDC
Reserve
Account,
and
(iii)
general
corporate
purposes;

WHEREAS,

the
Lenders
are
willing
to
make
such
green
term

loan
facility
available
upon
and
subject
to
the
terms
and
conditions
hereinafter
set
forth;

NOW,

THEREFORE,

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

ARTICLE

I

DEFINITIONS

AND

ACCOUNTING

TERMS

SECTION

1.01 Certain

Defined

Terms.

As

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

"Acceleration

Event"

has

the

meaning

given

to

such

term

in

Section

2.04(a).

(ii).

“Additional

Material

Contract”

has

the

meaning

specified

in

the

defined

term

“Material

Contracts”.

“Additional

Permitted

Debt

Proceeds”

shall

mean

Net

Cash

Proceeds

of

Debt

incurred

pursuant

to

any

of

Section

6.02(b)

(xi)

(2),

(3),

and

(4).

“Additional

Property”

has

the

meaning

specified

in

Section

6.01(j).

(ii).

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

-

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

"Administrative Questionnaire"
means
an
Administrative

Questionnaire
in
a
form
supplied
by
the
Administrative
Agent.

"Advance"
has
the
meaning
specified
in
Section
2.01(a).

"Adverse
Proceeding"
means
any
action,
written
claim,
suit,
litigation,
proceeding,
hearing
(whether
administrative,
judicial
or
otherwise),
governmental
investigation
or
arbitration
(whether
or
not
purportedly
on
behalf
of
Borrower)
at
law
or
in

equity,
or
before
or
by
any
Governmental
Authority
or
arbitrator,
domestic
or
foreign
(including
any
Environmental
Actions)
whether
pending
or,
to
the
knowledge
of
Borrower,
threatened
in
writing
against
Borrower.

“Affected
Property”
means
Property
that
has
been
sold,
lost,
destroyed,
damaged,
condemned,
taken,
or
otherwise
adversely
affected
as
a

result
of
the
occurrence
of
a
Asset
Sale,
Casualty
Event
or
Event
of
Eminent
Domain.

"Affiliate"

means
with
respect
to
a
specified
Person,
another
Person
that
directly,
or
indirectly
through
one
or
more
intermediaries,
Controls
or
is
Controlled
by
or
is
under
common
Control
with
the
Person
specified.

"Affiliated
Debt
Fund"
means
any
Affiliate
of
a
Sponsor
(other
than
Borrower
and
its
Subsidiaries)
that
is
primarily
engaged
in,
or
advises
funds
or
other
investment
vehicles
that
are
engaged
in,
making,
purchasing,
holding
or
otherwise
investing
in
commercial
loans,
bonds
and
similar
extensions
of
credit
or
securities
in
the

ordinary
course,
to
the
extent
the
Sponsor
does
not,
directly
or
indirectly,
possess
the
power
to
direct
or
cause
the
direction
of
the
investments
or
investment
policies
of
such
Affiliate.

“Agent
Parties”
has
the
meaning
specified
in
Section
9.01(d)
(ii).

“Agents”
means,
individually
or
collectively,
as
the
context
may

require,
the
Administrative
Agent
and
the
Collateral
Agent.

"Agreement"

has
the
meaning
specified
in
the
preamble
hereto.

"All-

In
Yield"
means,
as
to
any
Debt,
the
yield
thereof,
whether
in
the
form
of
interest
rate,
margin,
original
issue
discount,
upfront
fees,
a
SOFR
rate
or
Base
Rate
floor,
or

otherwise,
in
each
case,
incurred
or
payable
by
Borrower
generally
to
all
lenders
of
such
Debt.

“Anti-
Money
Laundering
Laws”
means,
collectively,
the
Patriot
Act
and
any
other
applicable
law,
regulation,
order,
decree
or
directive
of
any
relevant
jurisdiction
in
which
any
Lender,
Agent,
Interest
Rate
Hedge
Provider,
Borrower,

Holdings
or
Sponsor
is
located
or
doing
business
that
has
the
force
of
law
and
relates
to
anti-
money
laundering.

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-

"Applicable
Lending
Office"
means,
with
respect
to
each
Lender,
such
Lender's
Domestic
Lending
Office
in
the
case
of
a
Base

Rate
Advance
and
such
Lender's
International
Lending
Office
in
the
case
of
a
SOFR
Rate
Advance.

"Applicable
Margin"
means,
with
respect
to:
(a)
a
SOFR
Rate
Advance,
the
margin
set
forth
in
the
table
below
under
the
column
titled
"SOFR
Margin",
and
(b)
a
Base
Rate
Advance,
the
margin

set
forth
in
the
table
below
under
the
column
titled
"Base
Rate
Margin",
in
each
case
of
(a)
and
(b),
next
to
the
applicable
Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last
day
of
the
most
recently
ended
Fiscal
Quarter
commencing
with
the
first
Fiscal

Quarter
ending
after
the
Closing
Date;
provided,
that,
the
Applicable
Margin
as
of
the
Second
Amendment
Closing
Date
shall
be
at
Level
1
set
forth
in
the
table
below;
provided,
further,
that
a
change
in
the
Applicable
Margin
resulting
from
a
change
in
the
Net
Total
Leverage
Ratio
shall
be

effective
on
the
second
Business
Day
after
which
Borrower
delivers
each
of
the
financial
statements
required
by
Section
6.03(b).
or
6.03(c).
and
the
Compliance
Certificate
required
by
Section
6.03(d);
provided,
further,
that
if
at
any
time
Borrower
shall
have
failed
to
deliver
such
financial
statements
and
such
Compliance
Certificate
when

so
required,
the
Applicable
Margin
shall
be
at
Level
1
as
set
forth
below
until
such
time
as
such
financial
statements
and
Compliance
Certificate
are
delivered,
at
which
time
the
Applicable
Margin
shall
be
determined
as
provided
above;
provided,
further,
that
from
and
after
the
date
that
Borrower
grants
to

the
Collateral
Agent
a
first
priority
security
interest
(subject
to
Permitted
Liens
other
than
Liens
incurred
in
favor
of
Stonebriar)
in
the
Pretreatment
Facilities
and
the
Renewable
Diesel
Unit,
the
Applicable
Margin
calculated
pursuant
to
the
foregoing
shall
be
decreased
by
0.30%
per
annum;
provided,
further,
that
if
the
Muni

Bond
Coupon
Rate
is
greater
than
8.00%
per
annum,
the
Applicable
Margin
calculated
pursuant
to
the
foregoing
shall
be
increased
by
0.35%
per
annum
for
every
0.25%
incremental
difference
in
the
Muni
Bond
Coupon
Rate
from
8.00%
per
annum
(such
increases
in
the
Applicable
Margin,
the
"Muni
Bond
Indexation").

Level	Net Total Leverage Ratio	SOFR Margin	Base Rate Margin
1	Net Total Leverage Ratio for the applicable Measurement Period is greater than or equal to 3:00:1.00	7.30%	6.30%
2	Net Total Leverage Ratio for the applicable Measurement Period is less than 3:00:1.00 but greater than or equal to 2.50:1.00	6.80%	5.80%
3	Net Total Leverage Ratio for the applicable Measurement Period is less than 2.50:1.00	6.30%	5.30%

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-

“Approved
Fund”
means
any
Fund
that

is
administered
or
managed
by
(a) a
Lender,
(b) an
Affiliate
of
a
Lender
or
(c) an
entity
or
an
Affiliate
of
an
entity
that
administers
or
manages
a
Lender.

"Asset
Sale"
means
a
sale,
lease
(as
lessor),
sale
and
leaseback,
assignment,
conveyance,
exclusive
license
(as
licensor),
transfer
or
other
disposition
to,

or
any
exchange
of
Property
with,
any
Person,
in
one
transaction
or
a
series
of
transactions,
of
all
or
any
part
of
any
of
the
Properties
of
Borrower,
whether
now
owned
or
hereafter
acquired,
leased
or
licensed,
other
than
(a) sales,
leases,
transfers,
assignments
or
other
dispositions
or
exchanges
of
Properties

for
aggregate
consideration
of
less
than
\$5,000,000
in
any
Fiscal
Year,
(b)
sales
or
sales
and
leasebacks
of
Inventory,
intermediates,
finished
products,
chemicals,
and
catalyst
in
the
ordinary
course
of
business
and
not
for
speculative
purposes,
and
(c) any
sale,
lease,
transfer
or
other
disposition
or
exchange
of
Properties
pursuant
to

Section

6.02(e).

(other

than

Section

6.02(e).

(ii)).

"Asset

Sale

Proceeds"

means,

with

respect

to

any

Asset

Sale,

the

Net

Cash

Proceeds

received

by

Borrower

in

connection

with

such

Asset

Sale.

"Assignment

and

Assumption"

means

an

assignment

and

assumption

entered

into

by

a

Lender,

on

the

one

hand,

and

an

Eligible
Assignee
(with
the
consent
of
any
Person
whose
consent
is
required
by
Section
9.05),
on
the
other
hand,
and
acknowledged
by
the
Administrative
Agent,
in
accordance
with
Section
9.05
and
in
substantially
the
form
of
Exhibit A
or
any
other
form
approved
by
the
Administrative
Agent
(acting
on
the
instructions

of
the
Required
Lenders).

“Auction”
has
the
meaning
specified
in
Section
9.05(g)
(l).

“Available
Tenor”
means,
as
of
any
date
of
determination
and
with
respect
to
the
then-
current
Benchmark,
as
applicable,
(x)
if
such
Benchmark
is
a
term
rate,
any
tenor
for
such
Benchmark
(or
component
thereof)
that

is
or
may
be
used
for
determining
the
length
of
an
interest
period
pursuant
to
this
Agreement
or
(y)
otherwise,
any
payment
period
for
interest
calculated
with
reference
to
such
Benchmark
(or
component
thereof)
that
is
or
may
be
used
for
determining
any
frequency
of
making
payments
of
interest
calculated

with
reference
to
such
Benchmark
pursuant
to
this
Agreement,
in
each
case,
as
of
such
date
and
not
including,
for
the
avoidance
of
doubt,
any
tenor
for
such
Benchmark
that
is
then-
removed
from
the
definition
of
“Interest
Period”
pursuant
to
Section
2.08(d).

“Bail-

In
Action”
means
the
exercise

of
any
Write-
Down
and
Conversion
Powers
by
the
applicable
EEA
Resolution
Authority
in
respect
of
any
liability
of
an
EEA
Financial
Institution.

“Bail-
In
Legislation”
means,
with
respect
to
any
EEA
Member
Country
implementing
Article
55
of
Directive
2014/59/EU
of
the
European
Parliament
and
of
the
Council
of

the
European
Union,
the
implementing
law
for
such
EEA
Member
Country
from
time
to
time
which
is
described
in
the
EU
Bail-
In
Legislation
Schedule.

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

■

“Base
Case
Projections”
means
forecasts
of
the
financial
performance
of
Borrower
(prepared
after
giving
effect
to
the
consummation
of
the
Transactions
on
the
Closing
Date
and
which
shall
be
satisfactory,
in
form
and
substance,
to
the
Administrative
Agent
(acting
on
the
instructions

of
the
Required
Lenders)
and
the
Independent
Engineer)
on
an
annual
basis,
from
the
Closing
Date
through
the
fifth
anniversary
of
the
Closing
Date,
delivered
to
the
Administrative
Agent
on
April
14,
2023
with
the
file
name
"Business
Plan
proforma
for
I
Squared".

"Base
Rate"
means,
for
any
day,

a
rate
per
annum
equal
to
the
greatest
of
(a) the
Prime
Rate
in
effect
on
such
day;
(b) the
Federal
Funds
Effective
Rate
in
effect
on
such
day
plus
 $\frac{1}{2}$
of 1%;
and
(c)
Term
SOFR
for
a
one-
month
tenor
in
effect
on
such
day
plus
1.00%.
Any
change
in
the

Base
Rate
due
to
a
change
in
the
Prime
Rate,
the
Federal
Funds
Effective
Rate
or
the
Term
SOFR
shall
be
effective
from
and
including
the
effective
day
of
such
change
in
the
Prime
Rate,
the
Federal
Funds
Effective
Rate
or
the
Term
SOFR,
respectively.

“Base
Rate
Advance”
means

any
Advance
(or
any
portion
thereof)
that
bears
interest
as
provided
in
Section
2.05(a).
(i).

“Benchmark”
means,
initially,
the
Term
SOFR
Reference
Rate;
provided
that
if
a
Benchmark
Transition
Event
has
occurred
with
respect
to
the
Term
SOFR
Reference
Rate
or
the
then-
current
Benchmark,
then
“Benchmark”
means
the

applicable
Benchmark
Replacement
to
the
extent
that
such
Benchmark
Replacement
has
replaced
such
prior
benchmark
rate
pursuant
to
Section
2.08(a).

“Benchmark
Replacement”
means,
with
respect
to
any
Benchmark
Transition
Event,
the
sum
of:
(a)
the
alternate
benchmark
rate
that
has
been
selected
by
the
Administrative
Agent
(acting
on
the

instructions
of
the
Required
Lenders)
and
Borrower
giving
due
consideration
to
(i)
any
selection
or
recommendation
of
a
replacement
benchmark
rate
or
the
mechanism
for
determining
such
a
rate
by
the
Relevant
Governmental
Body
or
(ii)
any
evolving
or
then-
prevailing
market
convention
for
determining
a
benchmark
rate
as
a

replacement
to
the
then-
current
Benchmark
for
Dollar-
denominated
syndicated
credit
facilities
at
such
time
and
(b)
the
related
Benchmark
Replacement
Adjustment;
provided
that,
if
such
Benchmark
Replacement
as
so
determined
would
be
less
than
the
Floor,
such
Benchmark
Replacement
will
be
deemed
to
be
the
Floor
for
the
purposes

of
this
Agreement
and
the
other
Loan
Documents.

“Benchmark
Replacement
Adjustment”
means,
with
respect
to
any
replacement
of
the
then-
current
Benchmark
with
an
Unadjusted
Benchmark
Replacement,
the
spread
adjustment,
or
method
for
calculating
or
determining
such
spread
adjustment,
(which
may
be
a
positive
or
negative
value
or
zero)

that
has
been
selected
by
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)
and
Borrower
giving
due
consideration
to
(a)
any
selection
or
recommendation
of
a
spread
adjustment,
or
method
for
calculating
or
determining
such
spread
adjustment,
for
the
replacement
of
such
Benchmark
with
the
applicable
Unadjusted

Benchmark
Replacement
by
the
Relevant
Governmental
Body
or
(b)
any
evolving
or
then-
prevailing
market
convention
for
determining
a
spread
adjustment,
or
method
for
calculating
or
determining
such
spread
adjustment,
for
the

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replacement
of
such
Benchmark
with
the
applicable
Unadjusted
Benchmark

Replacement
for
Dollar-
denominated
syndicated
credit
facilities
at
such
time.

“Benchmark
Replacement
Date”
means
the
earliest
to
occur
of
the
following
events
with
respect
to
the
then-
current
Benchmark:

(a)
in
the
case
of
clause (a)
or
(b)
of
the
definition
of
“Benchmark
Transition
Event,”
the
later
of
(i)
the

date
of
the
public
statement
or
publication
of
information
referenced
therein
and
(ii)
the
date
on
which
the
administrator
of
such
Benchmark
(or
the
published
component
used
in
the
calculation
thereof)
permanently
or
indefinitely
ceases
to
provide
all
Available
Tenors
of
such
Benchmark
(or
such
component
thereof);
or

(b)
in
the
case
of
clause (c)
of
the
definition
of
“Benchmark
Transition
Event,”
the
first
date
on
which
such
Benchmark
(or
the
published
component
used
in
the
calculation
thereof)
has
been
determined
and
announced
by
the
regulatory
supervisor
for
the
administrator
of
such
Benchmark
(or
such
component
thereof)
to
be

non-
representative;
provided
that
such
non-
representativeness
will
be
determined
by
reference
to
the
most
recent
statement
or
publication
referenced
in
such
clause (c)
and
even
if
any
Available
Tenor
of
such
Benchmark
(or
such
component
thereof)
continues
to
be
provided
on
such
date.

For
the
avoidance
of
doubt,
the

“Benchmark
Replacement
Date”
will
be
deemed
to
have
occurred
in
the
case
of
clause (a)
or
(b)
with
respect
to
any
Benchmark
upon
the
occurrence
of
the
applicable
event
or
events
set
forth
therein
with
respect
to
all
then-
current
Available
Tenors
of
such
Benchmark
(or
the
published
component
used
in

the
calculation
thereof).

“Benchmark
Transition
Event”
means
the
occurrence
of
one
or
more
of
the
following
events
with
respect
to
the
then-
current
Benchmark:

(a)
a
public
statement
or
publication
of
information
by
or
on
behalf
of
the
administrator
of
such
Benchmark
(or
the
published
component
used
in
the

calculation
thereof)
announcing
that
such
administrator
has
ceased
or
will
cease
to
provide
all
Available
Tenors
of
such
Benchmark
(or
such
component
thereof),
permanently
or
indefinitely;
provided
that,
at
the
time
of
such
statement
or
publication,
there
is
no
successor
administrator
that
will
continue
to
provide
any
Available
Tenor
of

such
Benchmark
(or
such
component
thereof);

(b)

a
public
statement
or
publication
of
information
by
the
regulatory
supervisor
for
the
administrator
of
such
Benchmark
(or
the
published
component
used
in
the
calculation
thereof),
the
Federal
Reserve
Board,
the
Federal
Reserve
Bank
of
New
York,
an
insolvency
official
with
jurisdiction

over
the
administrator
for
such
Benchmark
(or
such
component),
a
resolution
authority
with
jurisdiction
over
the
administrator
for
such
Benchmark
(or
such
component)
or
a
court
or
an
entity
with
similar
insolvency
or
resolution
authority
over
the
administrator
for
such
Benchmark
(or
such
component),
which
states
that
the
administrator
of

such
Benchmark
(or
such
component)
has
ceased
or
will
cease
to
provide
all
Available
Tenors
of
such
Benchmark
(or
such
component
thereof)

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permanently
or
indefinitely;
provided
that,
at
the
time
of
such
statement
or
publication,
there
is
no
successor
administrator
that

will
continue
to
provide
any
Available
Tenor
of
such
Benchmark
(or
such
component
thereof);
or

(c)

a
public
statement
or
publication
of
information
by
the
regulatory
supervisor
for
the
administrator
of
such
Benchmark
(or
the
published
component
used
in
the
calculation
thereof)
announcing
that
all
Available
Tenors
of
such

Benchmark
(or
such
component
thereof)
are
not,
or
as
of
a
specified
future
date
will
not
be,
representative.

For
the
avoidance
of
doubt,
a
“Benchmark
Transition
Event”
will
be
deemed
to
have
occurred
with
respect
to
any
Benchmark
if
a
public
statement
or
publication
of
information
set
forth
above

has
occurred
with
respect
to
each
then-
current
Available
Tenor
of
such
Benchmark
(or
the
published
component
used
in
the
calculation
thereof).

“Benchmark
Transition
Start
Date”
means,
in
the
case
of
a
Benchmark
Transition
Event,
the
earlier
of
(a)
the
applicable
Benchmark
Replacement
Date
and
(b)
if
such
Benchmark

Transition
Event
is
a
public
statement
or
publication
of
information
of
a
prospective
event,
the
90th
day
prior
to
the
expected
date
of
such
event
as
of
such
public
statement
or
publication
of
information
(or
if
the
expected
date
of
such
prospective
event
is
fewer
than
90
days
after
such

statement
or
publication,
the
date
of
such
statement
or
publication).

“Benchmark
Unavailability
Period”
means,
the
period
(if
any)
(a)
beginning
at
the
time
that
a
Benchmark
Replacement
Date
has
occurred
if,
at
such
time,
no
Benchmark
Replacement
has
replaced
the
then-
current
Benchmark
for
all
purposes
hereunder
and
under

any
Loan
Document
in
accordance
with
Section
2.08
and
(b)
ending
at
the
time
that
a
Benchmark
Replacement
has
replaced
the
then-
current
Benchmark
for
all
purposes
hereunder
and
under
any
Loan
Document
in
accordance
with
Section
2.08.

“Beneficial
Owner”
has
the
meaning
assigned
to
such
term
in
Rule

13d3
and
Rule
13d5
under
the
Exchange
Act,
except
that
in
calculating
the
beneficial
ownership
of
any
particular
“person”
(as
that
term
is
used
in
Section
13(d)
(3)
of
the
Exchange
Act),
such
“person”
will
be
deemed
to
have
beneficial
ownership
of
all
securities
that
such
“person”
has
the
right

to
acquire
by
conversion
or
exercise
of
other
securities,
whether
such
right
is
currently
exercisable
or
is
exercisable
only
upon
the
occurrence
of
a
subsequent
condition.
The
terms
“Beneficially
Owns”
and
“Beneficially
Owned”
have
correlative
meanings.

“Beneficial
Ownership
Regulation”
means
31
C.F.R.
§
1010.230.

“Beneficial
Ownership
Certification”
means
a

certification
regarding
beneficial
ownership
as
required
by
the
Beneficial
Ownership
Regulation.

“Benefit
Plan”
means
any
of
(a)
an
“employee
benefit
plan”
(as
defined
below) in
Section
3(3)
of
ERISA)
that
is
subject
to
Title
I
of
ERISA,
(b)
a
“plan”
as
defined
in
Section
4975
of
the
Internal
Revenue
Code

to
which
Section
4975
of
the
Internal
Revenue
Code
applies,
and
(c)
any
Person
whose
assets
include
(for
purposes
of
the
Plan
Asset
Regulations
or
otherwise
for
purposes
of
Title
I
of
ERISA
or
Section
4975
of
the
Internal
Revenue
Code)
the
assets
of
any
such
“employee
benefit
plan”

or
“plan”.

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■

“Blenders

Tax
Credit”
means
(a)
the
\$1
per
gallon
tax
credit
provided
by
Section
6426(c)
of
the
Internal
Revenue
Code,
(b)
any
sustainable
aviation
fuel
tax
credit
pursuant
to
Section
40B
of
the
Internal
Revenue
Code,
or
any

successor
provisions
or
amendments
thereto
to
the
producer
or
the
first
fuel
blender
of
renewable
biodiesel
or
sustainable
aviation
fuel.

"BNSF
Sublease"
means
that
certain
Sublease
Agreement,
dated
as
of
December
17,
2021,
executed
by
Calumet
and
Borrower,
as
evidenced
by
that
certain
Memorandum
of
Sublease
dated
as
of

December
17,
2021,
recorded
December
17,
2021
as
Document
Number
R0422853
of
the
Official
Public
Records
of
Cascade
County,
Montana,
as
the
same
may
be
further
amended,
restated,
supplemented
or
otherwise
modified
from
time
to
time
in
accordance
with
the
terms
of
this
Agreement.

"BNSF
Sublease
Consent"
has

the
meaning
specified
in
Section
6.01(j)
(i).

“BNSF
Sublease
Property”
means
that
certain
property
subject
to
the
BNSF
Sublease
and
described
on
Schedule
VII
attached
hereto.
|

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

“Bona
Fide

Debt
Fund
Affiliate"
shall
mean
any
Person
that
(a) is
engaged
in
making,
purchasing,
holding
or
otherwise
investing
in
commercial
loans
or
similar
extensions
of
credit
in
the
ordinary
course
of
business,
(b) is
managed,
sponsored
or
advised
by
any
Person
Controlling,
Controlled
by
or
under
common
Control
with
a
Person
identified

by
Borrower
as
a
“competitor”
of
Borrower
(in
accordance
with
the
definition
of
“Disqualified
Lender”)
or
Affiliate
thereof,
(c)
has
managers
who
have
fiduciary
duties
to
the
investors
of
such
fund
or
Person
independent
of,
or
in
addition
to,
their
fiduciary
duties
to
the
investors
in
the
applicable
Person
that

is
a
“competitor”
of
Borrower,
and
(d)
has
no
personnel
involved
with
the
investment
in
such
competitor
or
Affiliate
thereof,
as
applicable,
that
(i) make
(or
have
the
right
to
make
or
participate
with
others
in
making)
investment
decisions
on
behalf
of
such
“competitor”
of
Borrower
or
(ii) have
access
to
any

information
(other
than
information
that
is
publicly
available)
relating
to
Borrower
or
any
of
their
respective
Subsidiaries
or
any
entity
that
forms
a
part
of
any
of
their
respective
businesses
(including
any
of
their
respective
Subsidiaries).

"Bonds"

has
the
meaning
assigned
to
such
term
in
the
CTA.

"Borrower"

has

the
meaning
specified
in
the
preamble
hereto.

"Borrower's
Notice"
has
the
meaning
specified
in
Section
4.01(h).
(vii).

"Borrowing"
means
the
extension
and
borrowing
consisting
of
the
Advances
made
by
the
Lenders
pursuant
to
Section
2.01.

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

"Building"
has
the
meaning

assigned
to
such
term
in
the
NFIP.

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■

"Business
Day"
means
any
day
that
is
not
a
Saturday,
Sunday
and
any
day
which
is
a
legal
holiday
under
the
laws
of
the
State
of
New
York,
U.S.
or
is
a
day

on
which
banking
institutions
located
in
such
state
or
territory
are
authorized
or
required
by
law
or
other
governmental
action
to
close.

“Business
Interruption
Insurance
Proceeds”
means
any
and
all
proceeds
of
any
insurance,
indemnity,
warranty
or
guaranty
payable
from
time
to
time
to
Borrower
with
respect
to
the

partial
or
complete
interruption
of
the
operation
of,
or
delay
in
the
startup
of
any
portion
or
component
of,
the
business
of
Borrower.

"Calumet"
means
Calumet
Montana
Refining,
LLC,
a
Delaware
limited
liability
company,
or
any
successor
or
other
transferee
that
owns
the
Refinery.

"Calumet
MSA
Consent"
shall
mean

that
certain
Direct
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Calumet,
Borrower
and
the
Collateral
Agent.

“Capital
Expenditures”
means,
for
any
period,
the
aggregate
of
all
expenditures
of
Borrower
during
such
period
that,
in
accordance
with
GAAP,
are
or
should
be
included
in
“property,

plant
and
equipment”
or
similar
items
reflected
in
the
balance
sheet
of
Borrower
or
in
“purchase
of
property
and
equipment”
or
similar
items
reflected
in
the
statement
of
cash
flows
of
Borrower,
but
excluding
to
the
extent
they
would
otherwise
be
included:

(a)
expenditures
made
in
connection
with
the

replacement,
substitution,
restoration
or
repair
of
Property
to
the
extent
financed
with
(a) Insurance
Proceeds
or
other
Cash
paid
to
Borrower
on
account
of
the
Casualty
Event
in
respect
of
the
Property
being
replaced,
restored
or
repaired
or
(b) Eminent
Domain
Proceeds
or
other
Cash
paid
to
Borrower
on
account
of
an

Event
of
Eminent
Domain,
in
each
case,
in
accordance
with
the
terms
of
this
Agreement;

(b)
the
purchase
price
of
equipment
that
is
purchased
simultaneously
with
the
trade-
in
of
existing
equipment
to
the
extent
that
the
gross
amount
of
such
purchase
price
is
less
than
any
credit
granted

by
the
seller
of
such
equipment
for
the
equipment
being
traded
in
at
such
time;

(c)

the
purchase
of
any
Property
or
other
expenditures
to
the
extent
financed
with
Asset
Sale
Proceeds
or
proceeds
of
any
other
sale
of
assets
to
the
extent
such
sale
is
expressly
permitted
under

the
terms
of
this
Agreement;

(d)
payments
under
Capitalized
Leases
to
the
extent
such
Capitalized
Leases
are
expressly
permitted
under
the
terms
of
this
Agreement;

(e)
expenditures
to
the
extent
Borrower
has
received
reimbursement
in
cash
from
a
Person
that
is
not
an
Affiliate
of
Borrower
and
for
which

Borrower
has
not
provided
and
is
not
required
to
provide
or
incur,
directly
or
indirectly,
any
consideration
or
obligation
to
such
Person
or
any
other
Person;

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-

(f)
the
purchase
of
Property
to
the
extent
financed
(directly
or
indirectly)
with
the

proceeds
of
Cash
equity
Contributions
received
by
Borrower
(directly
or
indirectly)
from
Sponsor
or
Holdings
(or
any
direct
or
indirect
owner
of
the
RDU
Facility)
prior
to
the
consummation
of
such
purchase,
which
Cash
equity
Contributions
have
been
contributed
by
Sponsor
or
Holdings,
directly
or
indirectly,
specifically
for
such

purpose;

and

(g)

other

expenses

that

would

constitute

Major

Maintenance

Expenses.

"Capitalized

Leases"

means,

as

applied

to

any

Person,

any

lease

of

any

Property

by

that

Person

as

lessee

that,

in

conformity

with

GAAP,

is

or

should

be

accounted

for

as

a

capital

lease

or

financing

lease

on

the

balance
sheet
of
that
Person.

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

"Cash
Equivalents"
means
any
of
the
following:

(a)
readily
marketable
direct
obligations
of
the
government
of
the
United
States
or
any
agency
or
instrumentality
thereof,
or

obligations
unconditionally
guaranteed
by
the
full
faith
and
credit
of
the
government
of
the
United
States,
in
each
case
maturing
within
one
year
from
the
date
of
acquisition
thereof;

(b)
securities
issued
by
any
state
of
the
United
States
of
America
or
any
political
subdivision
of
any
such
state

or
any
public
instrumentality
thereof
having
maturities
of
not
more
than
one
year
from
the
date
of
acquisition
thereof
and,
at
the
time
of
acquisition,
having
a
rating
of
AA-
or
higher
from
S&P
or
Aa3
or
higher
from
Moody's
(or,
at
any
time
that
neither
S&P
nor
Moody's
rates

such
obligations,
an
equivalent
rating
from
another
nationally
recognized
rating
service);

(c)
investments
in
commercial
paper
maturing
within 270 days
from
the
date
of
acquisition
thereof
and
having,
at
such
date
of
acquisition,
a
rating
of
at
least
A-
1
or
P-
1
from
either
S&P
or
Moody's
(or,
at
any

time
that
neither
S&P
nor
Moody's
rates
such
obligations,
an
equivalent
rating
from
another
nationally
recognized
rating
service);

(d)
investments
in
certificates
of
deposit,
banker's
acceptances
and
time
deposits
maturing
within 270 days
from
the
date
of
acquisition
thereof
issued
or
guaranteed
by
or
placed
with,
and
money
market
deposit
accounts

issued
or
offered
by,
the
Administrative
Agent
or
any
of
its
Affiliates
or
any
domestic
office
of
any
commercial
bank
organized
under
the
laws
of
the
United
States
of
America,
any
State
thereof,
any
country
that
is
a
member
of
the
OECD
or
any
political
subdivision
thereof,
that
has
a

combined
capital
and
surplus
and
undivided
profits
of
not
less
than
\$500,000,000;

(e)

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

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■

(f)

an
interest
bearing
account
maintained
by
the
Depositary
or
its
Affiliate
with
earnings
based
on
the
daily
Federal
Funds
Effective
Rate
as
determined
by
the
Federal
Reserve
Bank
of
New
York;
and

(g)

investments
in
"money
market
funds"
within
the
meaning
of

Rule
2a-
7
of
the
Investment
Company
Act
of 1940,
as
amended,
substantially
all
of
whose
assets
are
invested
in
investments
of
the
type
described
in
clauses (a).
through
(e) above.

"Casualty
Event"
means
a
casualty
event
that
causes
all
or
a
portion
of
the
Property
of
Borrower
to
be
damaged,
destroyed

or
rendered
unfit
for
normal
use
for
any
reason
whatsoever,
other
than
(a) ordinary
use
and
wear
and
tear,
(b) any
Event
of
Eminent
Domain
or
(c) any
casualty
event
in
respect
of
which
Borrower
reasonably
expect
that
Borrower
will
receive
Insurance
Proceeds
of
less
than
the
greater
of
(x)
\$15,000,000
or
(y)

five
percent
(5%)
of
trailing
twelve
month
EBITDA.

“Catalyst
Agreement”
means
the
agreement
set
forth
on
Schedule
1.01(b)
attached
hereto
under
the
heading
“Catalyst
Agreement”.

“Change
in
Law”
means
the
occurrence,
after
the
date
of
this
Agreement,
of
any
of
the
following:
(a) the
adoption
or
taking
effect
of
any

law,
rule,
regulation
or
treaty,
(b) any
change
in
any
law,
rule,
regulation
or
treaty
or
in
the
administration,
interpretation,
implementation
or
application
thereof
by
any
Governmental
Authority
or
(c) the
making
or
issuance
of
any
request,
rule,
guideline
or
directive
(whether
or
not
having
the
force
of
law)
by
any
Governmental

Authority;
provided
that
notwithstanding
anything
herein
to
the
contrary,
(x) the
Dodd-
Frank
Wall
Street
Reform
and
Consumer
Protection
Act
and
all
requests,
rules,
guidelines
or
directives
thereunder
or
issued
in
connection
therewith
and
(y) all
requests,
rules,
guidelines
or
directives
promulgated
by
the
Bank
for
International
Settlements,
the
Basel
Committee
on

Banking
Supervision
(or
any
successor
or
similar
authority)
or
the
United
States
or
foreign
regulatory
authorities,
in
each
case
pursuant
to
Basel
III,
shall
in
each
case
be
deemed
to
be
a
“Change
in
Law”,
regardless
of
the
date
enacted,
adopted
or
issued.

“Change
of
Control”
means
the
occurrence

of
any
of
the
following:

(a)

the
Sponsor
fails
to
own
and
Control,
directly
or
indirectly,
more
than
50%
of
the
Equity
Interests
of
Borrower
and
Calumet,
in
each
case,
entitled
to
vote
for
the
election
of
members
of
the
board
of
managers
(or
similar
governing
body)
of
each

of
Borrower
and
Calumet;
provided
that
if
Montana
Renewable
Holdings
LLC
becomes
a
publicly
traded
company
pursuant
to
an
initial
public
offering,
then
the
required
ownership
and
Control
by
the
Sponsor
with
respect
to
the
Borrower
shall
decrease
to
at
least
20%;

(b)
Holdings
fails
to
directly
own
100%

of
the
Equity
Interests
of
the
Borrower;
or

(c)
the
Sponsor
or
any
of
its
Affiliates
fails
to
continue
to
operate
the
RDU
Facility,
through
a
management
services
agreement
or
otherwise.

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■

"Closing
Date"
means
the
date
on
which
the
conditions

precedent
set
forth
in
Section
4.01
have
been
satisfied
or
waived
in
accordance
with
Section
9.04.

“Closing
Date
Operating
Budget”
has
the
meaning
specified
in
Section
4.01(a).
(ix).

“Collateral”
means
all
Property
(including
Equity
Interests)
of
Borrower
and
the
Equity
Interests
of
Borrower
owned
by
Holdings,
now
owned
or

hereafter
acquired,
other
than
the
Excluded
Property,
which
is
intended
to
be
subject
to
the
security
interests
or
Liens
granted
pursuant
to
any
of
the
Security
Documents.
The
term
"Collateral"
shall
include
Additional
Property
pledged
in
accordance
with
Section
6.01(j).
(ii).

"Collateral
Access
Agreement"
means
an
agreement
reasonably
satisfactory

in
form
and
substance
to
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)
and
the
Collateral
Agent
(it
being
agreed
that
such
Agents
shall
not
be
obligated
to
enter
into
any
agreement
where
it
indemnifies
a
third
party
in
such
Agent's
individual
capacity)
executed
by
(a)
a

bailee
or
other
Person
in
possession
of
Collateral,
and/or
(b)
any
mortgagee
or
lessor
of
real
property
on
which
Collateral
is
stored,
pursuant
to
which
such
Person
(i)
acknowledges
the
Collateral
Agent's
Lien
on
the
Collateral,
(ii)
releases
or
waives
such
Person's
Liens
in
such
stored
Collateral
held
by
such

Person
or
located
on
such
real
property,
(iii)
provides
the
Collateral
Agent
with
access
to
such
Collateral
held
by
such
bailee
or
other
Person
or
located
in
or
on
such
real
property
upon
prior
notice
and
on
mutually
agreeable
terms
and
conditions,
(iv)
as
to
any
mortgagee
or
landlord,
provides

the
Administrative
Agent
and
Collateral
Agent
with
a
reasonable
time
to
sell
and
dispose
of
the
Collateral
from
such
real
property
on
mutually
agreeable
terms
and
conditions,
and
(v)
makes
such
other
agreements
with
the
Administrative
Agent
and
Collateral
Agent
as
such
Agent
may
reasonably
require,
including
but
not
limited

to,
leasehold
mortgagee
protections
in
favor
of
such
Agent
to
the
extent
such
real
property
is
subject
to
a
mortgage,
in
each
case,
as
such
agreements
are
amended,
amended
and
restated,
replaced,
supplemented
or
otherwise
modified
from
time
to
time.

"Collateral
Agent"
means
Wilmington
Trust,
National
Association
(together
with

any
successor
collateral
trustee
appointed
pursuant
to
the
CTA).

"Commitment"

means,
with
respect
to
any
Lender
at
any
time,
the
amount
set
forth
opposite
such
Lender's
name
on
Schedule I
under
the
caption
"Commitment"
or,
if
such
Lender
has
entered
into
one
of
more
Assignment
and
Assumptions,
set
forth
for

such
Lender
in
the
Register
maintained
by
the
Administrative
Agent
as
such
Lender's
"Commitment".

"Commodity
Hedge
Agreement"
means
any
agreement
(including
each
confirmation
entered
into
pursuant
to
any
Master
Agreement)
entered
into
by
any
of
Borrower
providing
for
any
swap,
cap,
collar,
put,
call,
floor,
future,
option,
spot,
forward,

tolling
agreement,
fuel
purchase
and
sale
agreement,
emissions
credit
purchase
or
sale
agreement,
power
transmission
agreement,
fuel
transportation
agreement,
fuel
storage
agreement,
capacity
purchase
agreement,
fuel
supply
agreement,
reliability
must
run
agreement,
netting
agreement
or
similar
agreement
entered
into
in
respect
of
any
commodity
(but
excluding
any
energy
management
agreement),

whether
physical
or

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■

financial,
and
any
agreement
(including
any
guarantee,
credit
sleeve
or
similar
arrangement)
providing
for
credit
support
for
the
foregoing,
in
all
cases
whether
settled
financially
or
physically;
provided,
that
in
no
event
shall
an
Inventory
Financing
Facility
constitute

a
Commodity
Hedge
Agreement
hereunder.

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

"Conforming
Changes"
means,
with
respect
to
either
the
use
or
administration
of
Term
SOFR
or
the
use,
administration,
adoption
or
implementation
of
any
Benchmark
Replacement,
any
technical,
administrative
or
operational
changes
(including

changes
to
the
definition
of
“Base
Rate,”
the
definition
of
“Business
Day,”
the
definition
of
“U.S.
Government
Securities
Business
Day,”
the
definition
of
“Interest
Period”
or
any
similar
or
analogous
definition
(or
the
addition
of
a
concept
of
“interest
period”),
timing
and
frequency
of
determining
rates
and
making
payments
of

interest,
timing
of
borrowing
requests
or
prepayment,
conversion
or
continuation
notices,
the
applicability
and
length
of
lookback
periods,
the
applicability
of
Section
9.02(g)
and
other
technical,
administrative
or
operational
matters)
that
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)
decides
may
be
appropriate
to
reflect
the
adoption

and
implementation
of
any
such
rate
or
to
permit
the
use
and
administration
thereof
by
the
Administrative
Agent
in
a
manner
substantially
consistent
with
market
practice
(or,
if
the
Administrative
Agent
decides
that
adoption
of
any
portion
of
such
market
practice
is
not
administratively
feasible
or
if
the
Administrative
Agent

determines
that
no
market
practice
for
the
administration
of
any
such
rate
exists,
in
such
other
manner
of
administration
as
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)
decides
is
reasonably
necessary
in
connection
with
the
administration
of
this
Agreement
and
the
other
Loan
Documents).

"Consent"

means

(a)

the

Stonebriar

Consent,

(b)

Lease

Agreement

Estoppel,

(c)

Calumet

MSA

Consent,

and

(d)

any

other

consent

to

collateral

assignment

entered

into

on

or

after

the

date

hereof

in

respect

of

a

Replacement

Material

Contract.

"Consolidated"

refers

to

the

consolidation

of

accounts

in

accordance

with

GAAP.

"Contract
Termination
Proceeds"
means
any
termination
payments
received
by
Borrower
under
any
Material
Contract.

"Contractual
Obligations"
means,
as
applied
to
any
Person,
any
provision
of
any
Equity
Interests
issued
by
such
Person
or
of
any
indenture,
mortgage,
deed
of
trust,
contract,
undertaking,
agreement
or
other
instrument
to
which
such

Person
is
a
party
or
by
which
it
or
any
of
its
Properties
is
bound.

"Contributions"

means
cash
equity
capital
contributions
made
to
Borrower.

"Control"

means
the
possession,
directly
or
indirectly,
of
the
power
to
direct
or
cause
the
direction
of
the
management
or
policies
of
a
Person,
whether

through
the
ability
to
exercise
voting
power,
by
contract
or
otherwise.
“Controlling”
and
“Controlled”
have
meanings
correlative
thereto.

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■

“Control
Agreements”
means:
(a)
Wells
Fargo
Collections
DACA,
(b)
Wells
Fargo
Transfer
DACA,
(c)
Wells
Fargo
Operating
DACA,
and
(d)
with
respect

to
any
other
account
of
Borrower,
any
agreement
or
other
arrangement
(in
each
case,
in
form
and
substance
reasonably
satisfactory
to
the
Collateral
Agent)
which
provides
for
the
Collateral
Agent
to
have
“control”
(as
defined
in
Section
8-
106
of
the
UCC
as
such
term
relates
to
investment
property
(other

than
certificated
securities
or
commodity
contracts),
or
as
used
in
Section
9-
106
of
the
UCC,
as
such
term
relates
to
commodity
contracts,
or
as
used
in
Section
9-
104(a)
of
the
UCC,
as
such
term
relates
to
deposit
accounts),
in
each
case,
as
amended,
amended
and
restated,
supplemented
and/or

otherwise
modified
from
time
to
time.

"Conversion,"
"Convert,"
"Converting"
and
"Converted"
each
refer
to
a
conversion
of
the
Advances
(or
any
portion
thereof)
from
one
Type
into
the
other
Type
pursuant
to
Section
2.06
or
3.03.

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

"CTA"
means
that
certain
Collateral
Trust
and
Intercreditor
Agreement,
dated
as
of
the
Closing
Date,
entered
into
inter
alios
Borrower,
the
Collateral
Agent,
the
Administrative
Agent,
and
any
Parity
Lien
Representatives
(as
defined
therein)
that
may
become
party
thereto
from
time
to
time.

"Cure
Notice"
has
the
meaning
specified

in
Section
6.04(b),
(ii).

“Debt”
means,
as
applied
to
any
Person
and
without
duplication:

(a)
all
Debt
for
Borrowed
Money;

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

(c)
all

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

(d)

all
obligations
of
such
Person
under
conditional
sale
or
other
title
retention
agreements
relating
to
property
acquired
by
such
Person;

(e)

any

obligation
owed
for
all
or
any
part
of
the
deferred
purchase
price
of
property
or
services
(excluding
any
such
obligations
incurred
under
an
Employee
Benefit
Plan),
which
purchase
price
is
due
more
than
six
months
from
the
date
of
incurrence
of
the
obligation
in
respect
thereof;

(f)

all
indebtedness

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

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-

(g)
the

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

(h)

the
direct
or
indirect
guaranty,
endorsement
(otherwise
than
for
collection
or
deposit
in
the
ordinary
course
of
business),
co-
making,
discounting
with

recourse
or
sale
with
recourse
by
such
Person
of
the
obligation
of
another;

(i)
any
obligation
of
such
Person
the
primary
purpose
or
intent
of
which
is
to
provide
assurance
to
an
obligee
that
the
obligation
of
the
obligor
thereof
will
be
paid
or
discharged,
or
any
agreement
relating

thereto
will
be
complied
with,
or
the
holders
thereof
will
be
protected
(in
whole
or
in
part)
against
loss
in
respect
thereof;

(j)

all
obligations
of
such
Person
under
Sale
Leasebacks;

(k)

any
liability
of
such
Person
for
an
obligation
of
another
through
any
agreement
(contingent
or
otherwise)
(i) to

purchase,
repurchase
or
otherwise
acquire
such
obligation
or
any
security
therefor,
or
to
provide
funds
for
the
payment
or
discharge
of
such
obligation
(whether
in
the
form
of
loans,
advances,
stock
purchases,
capital
contributions
or
otherwise)
or
(ii) to
maintain
the
solvency
or
any
balance
sheet
item,
level
of
income
or

financial
condition
of
another;
and

(l)
all
obligations
of
such
Person
in
respect
of
any
exchange
traded
or
over
the
counter
derivative
transaction,
including
any
Hedge
Agreements,
whether
entered
into
for
hedging
or
speculative
purposes.

"Debt
for
Borrowed
Money."
means,
for
any
Person,
at
any
date
of
determination,
the

sum,
without
duplication,
of
(a) all
items
that,
in
accordance
with
GAAP,
would
be
classified
as
indebtedness
on
a
balance
sheet
of
such
Person
at
such
date,
and
(b) all
obligations
of
such
Person
under
acceptance,
letter
of
credit
or
similar
facilities
at
such
date,
but
excluding
Debt
in
respect
of
Capitalized

Leases
and
purchase
money
debt.

“Debt
Proceeds”
means,
with
respect
to
the
incurrence
or
issuance
of
any
Debt
(other
than
Debt
permitted
to
be
incurred
or
issued
pursuant
to
Section
6.02(b)),
the
Net
Cash
Proceeds
received
by
Borrower
in
connection
with
such
incurrence
or
issuance.

“Debt
Service
Reserve
Account”

has
the
meaning
given
to
the
term
“Term
Loan
Debt
Service
Reserve
Deficiency
Account”
in
the
CTA.

“Debt
Service
Reserve
Requirement”
means
on
any
date
of
determination,
an
amount
equal
to 100%
of
the
sum
of
the
reasonably
anticipated
aggregate
scheduled
principal,
interest
and
scheduled
fees
(including
commitment
fees,
but

excluding
(a)
any
upfront
or
agency
fees
and
(b)
any
scheduled
principal
payment
on
the
Maturity
Date,
as
applicable)
payable
during
the
following
six
month
period
occurring
after
such
date
of
determination
in
respect
of
the
Facilities,
net
of
(or
plus)
payments
under
Interest
Rate
Hedge
Agreements
that
are
reasonably

expected
to
be
made
or
received
during
such
six
month
period.

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■

"Debtor
Relief
Laws"
means
the
Bankruptcy
Code
and
all
other
liquidation,
conservatorship,
bankruptcy,
assignment
for
the
benefit
of
creditors,
moratorium,
rearrangement,
receivership,
insolvency,
reorganization,
or
similar
debtor
relief
laws

of
the
United
States
or
other
applicable
jurisdictions
from
time
to
time
in
effect.

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

"Defaulting
Lender"
means,
subject
to
Section
3.09(b),
any
Lender

that
(a) has
failed
to
(i) fund
all
or
any
portion
of
its
Advances
within
two
Business
Days
of
the
date
such
Advances
were
required
to
be
funded
hereunder
unless
such
Lender
notifies
the
Administrative
Agent
and
Borrower
in
writing
that
such
failure
is
the
result
of
such
Lender's
determination
that
one

or
more
conditions
precedent
to
funding
(each
of
which
conditions
precedent,
together
with
any
applicable
default,
shall
be
specifically
identified
in
such
writing)
has
not
been
satisfied,
or
(ii) pay
to
the
Administrative
Agent
or
any
other
Lender
any
other
amount
required
to
be
paid
by
it
hereunder
within
two Business
Days

of
the
date
when
due,
(b) has
notified
Borrower
or
the
Administrative
Agent
in
writing
that
it
does
not
intend
to
comply
with
its
funding
obligations
hereunder,
or
has
made
a
public
statement
to
that
effect
(unless
such
writing
or
public
statement
relates
to
such
Lender's
obligation
to
fund
the
Advances

hereunder
and
states
that
such
position
is
based
on
such
Lender's
determination
that
a
condition
precedent
to
funding
(which
condition
precedent,
together
with
any
applicable
default,
shall
be
specifically
identified
in
such
writing
or
public
statement)
cannot
be
satisfied),
(c) has
failed,
within
three
Business
Days
after
written
request
by
the

Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)
or
Borrower,
to
confirm
in
writing
to
the
Administrative
Agent
and
Borrower
that
it
will
comply
with
its
prospective
funding
obligations
hereunder
(provided
that
such
Lender
shall
cease
to
be
a
Defaulting
Lender
pursuant
to
this
clause (c).
upon
receipt
of

such
written
confirmation
by
the
Administrative
Agent
and
Borrower),
or
(d) has,
or
has
a
direct
or
indirect
parent
company
that
has
(i) become
the
subject
of
a
proceeding
under
any
Debtor
Relief
Law
or
has
become
the
subject
of
a
Bail-
In
Action,
or
(ii) had
appointed
for
it
a
receiver,
custodian,

conservator,
trustee,
administrator,
assignee
for
the
benefit
of
creditors
or
similar
Person
charged
with
reorganization
or
liquidation
of
its
business
or
assets,
including
the
Federal
Deposit
Insurance
Corporation
or
any
other
state
or
federal
regulatory
authority
acting
in
such
a
capacity;
provided
that
a
Lender
shall
not
be
a
Defaulting

Lender
solely
by
virtue
of
the
ownership
or
acquisition
of
any
Equity
Interest
in
that
Lender
or
any
direct
or
indirect
parent
company
thereof
by
a
Governmental
Authority
so
long
as
such
ownership
interest
does
not
result
in
or
provide
such
Lender
with
immunity
from
the
jurisdiction
of
courts
within

the
United
States
or
from
the
enforcement
of
judgments
or
writs
of
attachment
on
its
assets
or
permit
such
Lender
(or
such
Governmental
Authority)
to
reject,
repudiate,
disavow
or
disaffirm
any
contracts
or
agreements
made
with
such
Lender.
Any
determination
by
the
Administrative
Agent
that
a
Lender
is
a
Defaulting

Lender
under
any
one
or
more
of
clauses (a)
through
(d) above
shall
be
conclusive
and
binding
absent
manifest
error,
and
such
Lender
shall
be
deemed
to
be
a
Defaulting
Lender
(subject
to
Section
3.09)
upon
delivery
of
written
notice
of
such
determination
to
Borrower
and
each
Lender.

■

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

"Designated
Jurisdiction"
means
any
country
or
territory
to

the
extent
that
such
country
or
territory
itself
is
the
subject
of
any
Sanctions
(including,
without
limitation,
Cuba,
Iran,
North
Korea,
Russia,
Syria,
and
Crimea
region
of
Ukraine).

"Disposition"

means
any
sale,
assignment,
transfer,
conveyance
or
other
disposition.

"Dispose"

shall
have
a
corollary
meaning.

"Disqualified

Lenders"

means
any
competitor

of
Borrower
separately
identified
by
Borrower
to
the
Administrative
Agent
in
writing
on
the
Closing
Date
(including
by
email)
(and
such
competitors'
sponsors
and
Affiliates
reasonably
identifiable
solely
by
name
as
a
sponsor
or
an
Affiliate
of
such
Person);
provided
that
(a)
Disqualified
Lenders
shall
not
include
any
Permitted
Transferee,

and
(b)
“competitor”
shall
not
include
any
Bona
Fide
Debt
Fund
Affiliate
of
any
competitor.
The
list
of
Disqualified
Lenders
shall
be
made
available
to
any
Lender
upon
request
to
the
Administrative
Agent,
subject
to
customary
confidentiality
requirements;
it
being
understood
that
the
Administrative
Agent
may
assume
that
each
Person

listed
in
the
list
delivered
by
Borrower
on
the
Closing
Date
purporting
to
be
a
list
of
Disqualified
Lenders
is
a
competitor
of
the
Borrower
and
a
Disqualified
Lender,
and
the
Administrative
Agent
shall
have
no
duty
to
perform
any
investigation
as
to
whether
any
Person
is
a
competitor
of

Borrower,
a
Disqualified
Lender,
a
Permitted
Transferee
or
a
Bona
Fide
Debt
Fund
Affiliate
of
any
competitor
of
Borrower.

"Dollars"

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

"Domestic

Lending
Office"
means,
with
respect
to
any
Lender,
the
office
of
such
Lender
specified

as
its
“Domestic
Lending
Office”
opposite
its
name
on
Schedule I
or
in
the
Assignment
and
Assumption
pursuant
to
which
it
became
a
Lender,
as
the
case
may
be,
or
such
other
office
of
such
Lender
as
such
Lender
may
from
time
to
time
specify
to
Borrower
and
the
Administrative
Agent.

"EBITDA"

means,
for
the
Borrower,
for
any
period,
earnings
before
interest,
taxes,
depreciation
and
amortization,
and
adjusted
for
(a)
impairment;
(b)
unrealized
gains
and
losses
from
mark-
to-
market
accounting
for
hedging
activities;
(c)
realized
gains
and
losses
under
derivative
instruments
excluded
from
the
determination
of
net
income
(loss)
attributable

to
partners;
(d)
non-
cash
equity-
based
compensation
expense
and
other
non-
cash
items
(excluding
items
such
as
accruals
of
cash
expenses
in
a
future
period
or
amortization
of
a
prepaid
cash
expense)
that
were
deducted
in
computing
net
income
(loss)
attributable
to
partners;
(e)
debt
refinancing
fees,
extinguishment
costs,

premiums
and
penalties;
(f)
any
net
gain
or
loss
realized
in
connection
with
an
asset
sale
that
was
deducted
in
computing
net
income
(loss)
attributable
to
partners;
(g)
amortization
of
turnaround
costs;
(h)
lower
of
cost
or
market
inventory
adjustments;
(i)
the
impact
of
liquidation
of
inventory
layers
calculated
using

the
LIFO
method;
(j)
RINs
mark-
to-
market
adjustments;

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■

and
(k)
all
extraordinary,
unusual
or
non-
recurring
items
of
gain
or
loss,
or
revenue
or
expense.

“EEA
Financial
Institution”
means
(a)
any
credit
institution
or
investment
firm
established
in
any

EEA
Member
Country
which
is
subject
to
the
supervision
of
an
EEA
Resolution
Authority,
(b)
any
entity
established
in
an
EEA
Member
Country
which
is
a
parent
of
an
institution
described
in
clause (a).
of
this
definition,
or
(c)
any
financial
institution
established
in
an
EEA
Member
Country
which
is
a

subsidiary
of
an
institution
described
in
clause (a),
or
(b).
of
this
definition
and
is
subject
to
consolidated
supervision
with
its
parent.

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

"EEA
Resolution
Authority"
means
any
public
administrative
authority
or
any
person

entrusted
with
public
administrative
authority
of
any
EEA
Member
Country
(including
any
delegee)
having
responsibility
for
the
resolution
of
any
EEA
Financial
Institution.

“Eligible
Assignee”
means
any
Person
(other
than
a
Defaulting
Lender
or
a
Disqualified
Lender)
that
meets
the
requirements
to
be
an
assignee
under
Section
9.05(b)
(iii).

(v) and
(vi).
(subject
to
such
consents,
if
any,
as
may
be
required
under
Section
9.05(b).
(iii)).
it
being
understood
that,
unless
the
Administrative
Agent
has
received
written
notice
from
a
Lender
or
Borrower
in
accordance
with
the
terms
hereof
that
a
Person
is
not
an
Eligible
Assignee,
the
Administrative
Agent

may
assume
that
each
Person
signing
an
Assignment
and
Assumption
is
an
Eligible
Assignee,
and
the
Administrative
Agent
shall
have
no
duty
to
perform
any
investigation
as
to
whether
any
Person
is
an
Eligible
Assignee.

"Eminent
Domain
Proceeds"
means,
with
respect
to
any
Event
of
Eminent
Domain,
the
Net

Cash
Proceeds
received
by
Borrower
in
connection
with
such
Event
of
Eminent
Domain.

“Employee
Benefit
Plan”
means
any
“employee
benefit
plan”
as
defined
in
Section
3(3)
of
ERISA
which
is
or
was
adopted,
sponsored,
maintained
or
contributed
to
by,
or
required
to
be
contributed
to
by,
Borrower
or
any

of
their
respective
ERISA
Affiliates,
or
with
respect
to
or
in
connection
with
which
Borrower
could
have
any
actual
or
contingent
liability.

"Environmental
Action"
means
any
investigation,
notice,
notice
of
violation,
claim,
action,
suit,
proceeding,
demand,
consent
order,
consent
decree,
abatement
order
or
other
order
or
directive
(conditional
or

otherwise)
by
any
Governmental
Authority
or
any
other
Person,
arising
(a) pursuant
to
or
in
connection
with
Environmental
Law
or
any
actual
or
alleged
violation
of
Environmental
Law;
(b) in
connection
with
any
Hazardous
Material
or
any
actual
or
alleged
Hazardous
Materials
Activity;
or
(c) in
connection
with
any
actual
or
alleged
damage,

injury,
threat
or
harm
from
Hazardous
Materials
to
human
health,
safety
or
the
environment
(including
natural
resources).

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■

"Environmental
Law"
means
any
and
all
applicable
current
or
future,
international,
United
States
(or
any
subdivision
of
any
of
them)
statutes,
ordinances,
orders,

rules,
permits,
licenses,
regulations,
judgments,
Governmental
Authorizations,
or
any
other
legally
enforceable
requirements
of
Governmental
Authorities
relating
to
(i) environmental
matters
or
the
protection
of
the
environment
(including
surface
water,
groundwater,
soils
or
subsurface
strata,
or
indoor
or
outdoor
air),
including
those
legal
requirements
relating
to
any
Hazardous
Materials
Activity;
(ii) occupational

safety
and
health
(to
the
extent
related
to
exposure
to
Hazardous
Materials);
or
(iii)
the
protection
of
human,
plant
or
animal
health
or
welfare,
in
any
manner
applicable
to
the
RDU
Facility
or
Borrower
or
any
of
their
respective
Properties.

"Equity
Cure"
has
the
meaning
specified
in
Section
6.04(b).

“
Equity
Interests”
means,
with
respect
to
any
Person,
shares
of
Equity
Interests
of
(or
other
ownership
or
profit
interests
in)
such
Person,
warrants,
options
or
other
rights
for
the
purchase
or
other
acquisition
from
such
Person
of
shares
of
Equity
Interests
of
(or
other
ownership
or
profit
interests
in)

such
Person,
securities
convertible
into
or
exchangeable
for
shares
of
Equity
Interests
of
(or
other
ownership
or
profit
interests
in)
such
Person
or
warrants,
rights
or
options
for
the
purchase
or
other
acquisition
from
such
Person
of
such
shares
(or
such
other
interests),
and
other
ownership
or
profit
interests
in

such
Person
(including,
without
limitation,
partnership,
member
or
trust
interests
therein),
whether
voting
or
nonvoting,
and
whether
or
not
such
shares,
warrants,
options,
rights
or
other
interests
are
authorized
or
otherwise
existing
on
any
date
of
determination.

“ERISA”
means
the
Employee
Retirement
Income
Security
Act
of 1974,
as
amended
from

time
to
time,
and
any
successor
thereto.

“ERISA
Affiliate”
means,
as
applied
to
any
Person,
(a) any
corporation
which
is
a
member
of
a
controlled
group
of
corporations
within
the
meaning
of
Section
414(b)
of
the
Internal
Revenue
Code
of
which
that
Person
is
a
member;
(b) any
trade
or
business

(whether
or
not
incorporated)
which
is
a
member
of
a
group
of
trades
or
businesses
under
common
control
within
the
meaning
of
Section
414(c)
of
the
Internal
Revenue
Code
of
which
that
Person
is
a
member;
and
(c)
solely
for
the
purpose
of
the
funding
requirements
of
Section
412
of

the
Internal
Revenue
Code
or
Section
302
of
ERISA,
any
member
of
an
affiliated
service
group
within
the
meaning
of
Section
414(m)
or
(o)
of
the
Internal
Revenue
Code
of
which
that
Person,
any
corporation
described
in
clause (a).
above
or
any
trade
or
business
described
in
clause (b).
above
is

a
member.

“ERISA
Event”
means
(a) a
“reportable
event”
within
the
meaning
of
Section
4043
of
ERISA
and
the
regulations
issued
thereunder
with
respect
to
any
Pension
Plan
(excluding
those
for
which
the
provision
for 30-
day
notice
to
the
PBGC
has
been
waived
by
regulation);
(b) the
failure
to
meet
the

minimum
funding
standard
of
Section
412
of
the
Internal
Revenue
Code
with
respect
to
any
Pension
Plan
(whether
or
not
waived
in
accordance
with
Section
412(c)
of
the
Internal
Revenue
Code)
or
the
failure
to
make
by
its
due
date
a
required
installment
under
Section
430(j)
of
the
Internal
Revenue

Code
with
respect
to
any
Pension
Plan
or
the
failure
to
make
any
required
contribution
to
a
Multiemployer
Plan;
(c) the
provision
by
the
administrator
of
any
Pension
Plan
pursuant

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■

to
Section
4041(a)
(2)
of
ERISA
of
a
notice
of
intent
to

terminate
such
plan
in
a
distress
termination
described
in
Section
4041(c)
of
ERISA;
(d) the
withdrawal
by
Borrower
or
any
of
their
respective
ERISA
Affiliates
from
any
Pension
Plan
with
two
or
more
contributing
sponsors
who
are
not
treated
as
a
single
employer
under
Title
IV
of
ERISA
or
the
termination

of
any
such
Pension
Plan
resulting
in
liability
to
Borrower
or
any
of
their
respective
ERISA
Affiliates
pursuant
to
Section
4063
or 4064
of
ERISA;
(e) the
institution
by
the
PBGC
of
proceedings
to
terminate
any
Pension
Plan,
or
the
occurrence
of
any
event
or
condition
which
could
reasonably
be
expected
to

constitute
grounds
under
ERISA
for
the
termination
of,
or
the
appointment
of
a
trustee
to
administer,
any
Pension
Plan;
(f) the
imposition
of
liability
on
Borrower
or
any
of
their
respective
ERISA
Affiliates
pursuant
to
Section
4062(e)
or 4069
of
ERISA
or
by
reason
of
the
application
of
Section
4212(c)
of
ERISA;

(g) the
withdrawal
of
Borrower
or
any
of
their
respective
ERISA
Affiliates
in
a
complete
or
partial
withdrawal
(within
the
meaning
of
Sections
4203
or 4205
of
ERISA)
from
any
Multiemployer
Plan
if
there
is
any
potential
liability
therefor,
or
the
receipt
by
Borrower
or
any
of
their
respective
ERISA
Affiliates
of

notice
from
any
Multiemployer
Plan
that
it
is
in
insolvency
pursuant
to
Section
4245
of
ERISA,
or
that
it
intends
to
terminate
or
has
terminated
under
Section
4041A
or 4042
of
ERISA;
(h) the
imposition
of
a
Lien
pursuant
to
Section
430(k)
of
the
Internal
Revenue
Code
or
pursuant
to
ERISA
with

respect
to
any
Pension
Plan;
(i) the
occurrence
of
a
non-
exempt
prohibited
transaction
(within
the
meaning
of
Section
4975
of
the
Internal
Revenue
Code
or
Section
406
of
ERISA)
which
could
reasonably
be
expected
to
result
in
material
liability
to
Borrower
or
any
of
their
respective
ERISA
Affiliates;
(j) a
Pension

Plan
is,
or
is
expected
to
be,
in
“at
risk”
status
within
the
meaning
of
Section
430(i)
(4)
of
the
Internal
Revenue
Code
or
Section
303(i)
(4)
of
ERISA;
or
(k) a
Multiemployer
Plan
is
in
“endangered
status”
(under
Section
432(b)
(1)
of
the
Internal
Revenue
Code
or
Section
305(b)
(1)

of
ERISA)
or
"critical
status"
(under
Section
432(b)
(2)
of
the
Internal
Revenue
Code
or
Section
305(b)
(2)
of
ERISA).

"Erroneous
Payment"
has
the
meaning
assigned
to
it
in
Section
8.11(a).

"Erroneous
Payment
Deficiency
Assignment"
has
the
meaning
assigned
to
it
in
Section
8.11(d)
(i).

"Erroneous
Payment
Impacted

Class
has
the
meaning
assigned
to
it
in
Section
8.11(d)
(i).

“Erroneous
Payment
Return
Deficiency”
has
the
meaning
assigned
to
it
in
Section
8.11(d)
(i).

“Erroneous
Payment
Subrogation
Rights”
has
the
meaning
assigned
to
it
in
Section
8.11(e).

“EU
Bail-
In
Legislation
Schedule”
means
the
EU
Bail-
In

Legislation
Schedule
published
by
the
Loan
Market
Association
(or
any
successor
Person),
as
in
effect
from
time
to
time.

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■

“Event
of
Abandonment”
means
(i)
the
actual
abandonment,
suspension
or
cessation
of,
or
the
entry
of
an
injunction,
judgment
or
decree

against
Borrower
requiring
the
abandonment,
suspension
or
cessation
of,
all
or
substantially
all
of
the
activities
related
to
the
operation
of
the
RDU
Facility
for
a
period
in
excess
of
sixty
(60)
consecutive
days
(other
than
as
a
result
of
an
event
of
force
majeure
or
technical
or
other
non-

economic
issues
so
long
as
Borrower
is
diligently
attempting
to
mitigate
or
cure
such
issues
and
has
an
intent
to
re-
start
operation);
or
(ii)
a
formal,
public
announcement
by
Borrower
of
a
decision
to
permanently
abandon
or
indefinitely
defer
or
suspend
the
operation
of
the
RDU
Facility
for

any
reason.

“Event
of
Default”
has
the
meaning
specified
in
Section
7.01.

“Event
of
Eminent
Domain”
means
any
action,
series
of
actions,
omissions
or
series
of
omissions
by
any
Governmental
Authority
(a) by
which
such
Governmental
Authority
appropriates,
confiscates,
condemns,
expropriates,
nationalizes,
seizes
or
otherwise
takes
all
or
a
material

portion
of
the
Property
of
Borrower
(including
any
Equity
Interests
of
Borrower)
or
(b) by
which
such
Governmental
Authority
assumes
custody
or
control
of
the
Property
(other
than
immaterial
portions
of
such
Property)
or
business
operations
of
Borrower
or
operation
of
the
RDU
Facility
(or
any
Equity
Interests
of
Borrower)
other

than
any
such
action,
series
of
actions,
omissions
or
series
of
omissions
in
respect
of
which
Borrower
reasonably
expects
that
Borrower
will
receive
Eminent
Domain
Proceeds
of
\$15,000,000
or
less
in
the
aggregate
for
all
such
actions,
series
of
actions,
omissions
or
series
of
omissions
during
the
term
of

this
Agreement.

“Excess
Cash
Flow”
means,
as
of
any
date
of
determination,
the
aggregate
amount
of
funds
available
in
the
Surplus
Account
as
of
such
date.

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

“Excluded
Property”
has
the

meaning
specified
in
the
Security
Agreement.

“Excluded
Taxes”
means
any
of
the
following
Taxes
imposed
on
or
with
respect
to
a
Recipient
or
required
to
be
withheld
or
deducted
from
a
payment
to
a
Recipient,
(a)
Taxes
imposed
on
or
measured
by
net
income
(however
denominated),
franchise
Taxes,
branch

profits
Taxes,
in
each
case,
(i) imposed
as
a
result
of
such
Recipient
being
organized
under
the
laws
of,
or
having
its
principal
office
or,
in
the
case
of
any
Lender,
its
Applicable
Lending
Office
located
in,
the
jurisdiction
imposing
such
Tax
(or
any
political
subdivision
thereof)
or
(ii) that
are
Other

Connection
Taxes,
(b) in
the
case
of
a
Lender,
U.S. federal
withholding
Taxes
imposed
on
amounts
payable
to
or
for
the
account
of
such
Lender
with
respect
to
an
applicable
interest
in
the
Advances
or
Commitment
pursuant
to
a
law
in
effect
on
the
date
on
which
(i) such
Lender
acquires
such
interest

in
the
Advances
or
Commitment
(other
than
pursuant
to
an
assignment
request
by
Borrower
under
Section
3.07(b)).
or
(ii) such
Lender
changes
its
Applicable
Lending
Office,
except
in
each
case
to
the
extent
that,
pursuant
to
Section
3.05,
amounts
with
respect
to
such
Taxes
were
payable
either
to
such
Lender's
assignor

immediately
before
such
Lender
became
a
party
hereto
or
to
such
Lender
immediately
before
it
changed
its
Applicable
Lending
Office,
(c)
Taxes
attributable

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■

to
such
Recipient's
failure
to
comply
with
Section
3.05(f).
and
(d) any
Taxes
imposed
under
FATCA.
"Facility"
means,

at
any
time,
the
aggregate
amount
of
the
Lenders'
Commitments
or
Advances
at
such
time.

“FATCA”
means
Sections
1471
through 1474
of
the
Internal
Revenue
Code
as
of
the
date
of
this
Agreement
(or
any
amended
or
successor
version
that
is
substantively
comparable
and
not
materially
more
onerous
to
comply

with),
any
current
or
future
regulations
or
official
interpretations
thereof,
any
agreements
entered
into
pursuant
to
Section
1471(b)
(1)
of
the
Internal
Revenue
Code
and
any
fiscal
or
regulatory
legislation,
rules
or
practices
adopted
pursuant
to
any
such
intergovernmental
agreement,
treaty
or
convention
among
Governmental
Authorities
and
implementing
such
Sections

of
the
Internal
Revenue
Code.

"Federal
Funds
Effective
Rate"
means,
for
any
day,
the
rate
calculated
by
the
Federal
Reserve
Bank
of
New
York
based
on
such
day's
federal
funds
transactions
by
depository
institutions
(as
determined
in
such
manner
as
the
Federal
Reserve
Bank
of
New
York
shall
set

forth
on
its
public
website
from
time
to
time)
and
published
on
the
next
succeeding
Business
Day
by
the
Federal
Reserve
Bank
of
New
York
as
the
federal
funds
effective
rate;
provided,
that
if
the
Federal
Funds
Effective
Rate
for
any
day
is
less
than
zero,
the
Federal
Funds
Effective

Rate
for
such
day
will
be
deemed
to
be
zero.

“Fee
Letters”
means
collectively,
(a)
that
certain
Upfront
Fee
Letter,
dated
as
of
the
date
hereof,
among
Borrower
and
Initial
Lenders,
(b)
that
certain
Agency
Fee
Letter,
dated
as
of
the
date
hereof,
between
Borrower
and
the
Administrative
Agent,

and
(c)
certain
Agency
Fee
Letter,
dated
February
6,
2023,
between
Borrower
and
the
Collateral
Agent.

"Feedstock
Agreements"
means
the
agreements
set
forth
on
Schedule
1.01(b)
attached
hereto
under
the
heading
"Feedstock
Agreements".

"Feedstock
Market
Price"
means
as
of
any
date
of
determination,
the
spot
price
quoted
on
the

Chicago
Board
of
Trade
for
crude
soybean
oil.

"Fees"
means
any
amounts
paid
to
a
Recipient
under
a
Fee
Letter.

"Financial
Covenant"
has
the
meaning
specified
in
Section
6.04(b).

"Financial
Officer"
in
respect
of
any
Person
means
the
chief
executive
officer,
president,
chief
financial
officer,
chief
accounting
officer,

any
vice-
president,
controller,
treasurer
or
any
assistant
treasurer
of
such
Person.

"Financial
Officer
Certification"
means,
with
respect
to
the
financial
statements
for
which
such
certification
is
required,
the
certification
of
a
Financial
Officer
of
Borrower
that
such
financial
statements
fairly
present,
in
all
material
respects,
the
financial
condition

of
Borrower
as
at
the
dates
indicated
and
the
results
of
their
operations
and
their
cash
flows
for
the
periods
indicated,
subject
to
changes
resulting
from
audit
and
normal
year-
end
adjustments
and,
in
the
case
of
unaudited
financial
statements,
the
absence
of
footnotes.

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

"Fiscal
Year"
means
a
fiscal
year
of
Borrower
ending
on
December
31
of
each
calendar
year.

"Floor"
means
a
rate
of
interest
equal
to
2.00%.

"Foreign
Lender"
means
any
Lender
that
is
not
a

US
Person.

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

“Funding
Date”
means
the
date
on
which
the
conditions
precedent

set
forth
in
Sections
4.01
and
4.02
have
been
satisfied
or
waived
in
accordance
with
Section
9.04.

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

"Funds
Flow
Memorandum"
has
the
meaning
specified
in
Section
4.02(a).
(ii).

"GAAP"
means
generally
accepted
accounting
principles
in
the
United
States
set

forth
in
the
opinions
and
pronouncements
of
the
Accounting
Principles
Board
and
the
American
Institute
of
Certified
Public
Accountants
and
statements
and
pronouncements
of
the
Financial
Accounting
Standards
Board
or
such
other
principles
as
may
be
approved
by
a
significant
segment
of
the
accounting
profession
in
the
United
States,
as

in
effect
from
time
to
time.

"Governmental
Authority"
means
the
government
of
the
United
States
or
of
any
other
nation,
or
of
any
political
subdivision
thereof,
whether
state,
provincial,
territorial
or
local,
and
any
agency,
authority,
instrumentality,
regulatory
body,
court,
central
bank
or
other
entity
exercising
executive,
legislative,
judicial,

taxing,
regulatory
or
administrative
powers
or
functions
of
or
pertaining
to
government,
including
any
supra-
national
bodies
such
as
the
European
Union
or
the
European
Central
Bank
and
including
the
Superintendent
of
Financial
Institutions
or
other
comparable
authority
or
agency.

"Governmental
Authorization"
means
any
authorization,
approval,
consent,
franchise,
license,

covenant,
order,
ruling,
permit,
certification,
exemption,
registration,
notice,
declaration
or
similar
right,
undertaking
or
other
action
of,
to
or
by,
or
any
filing,
qualification
or
registration
with,
any
Governmental
Authority.

"Haldor
License
Agreement"
means
the
agreement
set
forth
on
Schedule
1.01(b)
attached
hereto
under
the
heading
"Haldor
License
Agreement".

"Hazardous
Materials"
means
(a) any
petrochemical
or
petroleum
products,
oil,
waste
oil,
asbestos
in
any
form
that
is
or
could
become
friable,
urea
formaldehyde
foam
insulations,
toxic
mold,
lead-
based
paint
and
polychlorinated
biphenyls;
(b) any
products,
mixtures,
compounds,
materials,
wastes
or
substances,
air
emissions,
toxic
substances,
wastewater
discharges
and
any
chemical,

material,
waste
or
substance
that
may
give
rise

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■

to
liability
pursuant
to,
or
is
listed
or
regulated
under,
or
the
human
exposure
to
which
or
the
Release
of
which
is
controlled
or
limited
by
Environmental
Laws;
and
(c) any
materials,
wastes
or

substances
defined
in
Environmental
Laws
as
“hazardous,”
“toxic,”
“pollutant,”
or
“contaminant,”
or
words
of
similar
meaning
or
regulatory
effect.

“Hazardous
Materials
Activity.”
means
any
past,
current,
proposed
or
threatened
activity,
event
or
occurrence
involving
any
Hazardous
Materials,
including
the
generation,
use,
manufacture,
possession,
storage,
holding,
presence,
existence,
location,
Release,

threatened
Release,
discharge,
placement,
transportation,
processing,
construction,
treatment,
abatement,
removal,
remediation,
disposal,
disposition
or
handling
of
any
Hazardous
Materials,
and
any
corrective
action
or
response
action
with
respect
to
any
of
the
foregoing.

"Hedge
Agreement"
means
(a)
any
and
all
interest
rate
swap
transactions,
basis
swaps,
credit
derivative
transactions,

forward
rate
transactions,
commodity
swaps,
commodity
options,
forward
commodity
contracts,
equity
or
equity
index
swaps
or
options,
bond
or
bond
price
or
bond
index
swaps
or
options
or
forward
bond
or
forward
bond
price
or
forward
bond
index
transactions,
interest
rate
options,
forward
foreign
exchange
transactions,
cap
transactions,
floor
transactions,

collar
transactions,
currency
swap
transactions,
cross-
currency
rate
swap
transactions,
currency
options,
spot
contracts,
or
any
other
similar
transactions
or
any
combination
of
any
of
the
foregoing
(including
any
options
to
enter
into
any
of
the
foregoing),
whether
or
not
any
such
transaction
is
governed
by
or
subject
to
any

master
agreement,
and
(b)
any
and
all
transactions
of
any
kind,
and
the
related
confirmations,
which
are
subject
to
the
terms
and
conditions
of,
or
governed
by,
any
form
of
master
agreement
published
by
the
International
Swaps
and
Derivatives
Association,
Inc.
or
any
Master
Agreement,
including
any
such
obligations
or

liabilities
under
any
Master
Agreement.

"Highest
Lawful
Rate"
means
the
maximum
lawful
interest
rate,
if
any,
that
at
any
time
or
from
time
to
time
may
be
contracted
for,
charged,
or
received
under
the
laws
applicable
to
any
Lender
which
are
presently
in
effect
or,
to
the
extent
allowed

by
law,
under
such
applicable
laws
which
may
hereafter
be
in
effect
and
which
allow
a
higher
maximum
nonusurious
interest
rate
than
applicable
laws
now
allow.

"Hydrocracker
Facilities"
means
the
Renewable
Diesel
Unit,
related
equipment
and
facilities
and
the
real
property
upon
which
it
is
located.

"IDC
Reserve
Account"

has
the
meaning
given
to
the
term
“Term
Loan
IDC
Reserve
Account”
in
the
CTA.

“IDC
Reserve
Fund
Requirement”
means
on
any
date
of
determination,
an
amount
equal
to 100%
of
the
sum
of
the
reasonably
anticipated
aggregate
scheduled
principal,
interest
and
scheduled
fees
(including
commitment
fees,
but
excluding
(a)

any
upfront
or
agency
fees
and
(b)
any
scheduled
principal
payment
on
the
Maturity
Date,
as
applicable)
payable
during
the
three
month
period
commencing
from
the
date
of
the
turnaround
planned
as
part
of
sustainable
aviation
fuel
expansion
(calculated
using
(A)
for
any
portion
of
such
three
(3)
month
period

for
which
an
interest
rate
is
already
then
in
effect,
the
interest

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-

rate
then
in
effect
and
(B)
for
any
future
periods,
an
assumed
Term
SOFR
for
an
interest
period
of,
at
the
election
of
Borrower,
one
month
or
three
months,

as
of
such
date
of
determination),
net
of
(or
plus)
payments
under
Interest
Rate
Hedge
Agreements
that
are
reasonably
expected
to
be
made
or
received
during
such
three
month
period.

"Illegality
Notice"
has
the
meaning
specified
in
Section
3.03(b).

"Indemnified
Taxes"
means

(a) Taxes,
other
than
Excluded
Taxes,
imposed

on
or
with
respect
to
any
payment
made
by
or
on
account
of
any
obligation
of
Borrower
under
any
Loan
Document
and
(b) to
the
extent
not
otherwise
described
in
(a),
Other
Taxes.

"Indemnitee"

has
the
meaning
specified
in
Section
9.02(b).

"Independent

Engineer"
means
Turner,
Mason
&
Company
or
any

other
independent
engineer
reasonably
acceptable
to
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
engaged
by
Borrower.

"Initial
Bonds"
shall
have
the
meaning
specified
in
the
definition
of
Muni
Bond
Financing.

"Initial
Lenders"
means
the
banks,
financial
institutions
and
other
institutional
lenders
listed
on
the
signature
pages

hereof
as
the
Initial
Lenders.

"Insolvency
Event"
means
with
respect
to
Borrower,
the
occurrence
of
any
of
the
following
events:

(a)
an
order
is
made
that
Borrower
be
wound
up;

(b)
an
order
appointing
a
liquidator,
an
administrator
or
a
provisional
liquidator
in
respect
of
Borrower
is
made,

or
one
of
them
is
appointed;

(c)

a
receiver,
receiver
and
manager,
statutory
manager,
trustee
or
similar
official,
is
appointed
in
respect
of
Borrower
or
all
or
substantially
all
of
its
assets;

(d)

Borrower
enters
into,
or
resolves
to
enter
into,
an
arrangement
or
reconstruction
or
composition
with,
or

assignment
for
the
benefit
of,
all
or
any
class
of
its
creditors
or
it
proposes
a
reorganization,
moratorium
or
other
administration
involving
any
of
them
for
reasons
relating
to
insolvency;

(e)
Borrower
is
or
states
that
it
is
unable
to
pay
its
debts
generally
when
they
fall
due;

(f)
Borrower
resolves
to
wind
itself
up,
assigns
itself
into
bankruptcy
or
commits
any
act
of
bankruptcy
as
such
term
is
defined
in
any
legislation
applicable
to
Borrower,
or
gives
notice
of
its
intention
to
do
so
for
reasons
relating
to
insolvency;

(g)
Borrower
takes
any
steps
to
obtain

or
is
granted
protection
from
its
creditors
generally,
under
any
applicable
law;

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■

(h)
(A)
the
commencement
of
an
involuntary
proceeding
against
Borrower
(I)
seeking
bankruptcy,
liquidation,
reorganization,
dissolution,
winding
up,
a
composition
or
arrangement
with
creditors,
a
readjustment
of
debts,

or
other
relief
with
respect
to
it
or
its
debts
under
any
bankruptcy
laws
or
other
customary
insolvency
actions
or
(II)
seeking
the
appointment
of
a
trustee,
receiver,
liquidator,
custodian
or
other
similar
official
of
it
or
any
substantial
part
of
its
assets,
the
issuance
of
a
writ
of
attachment,

execution,
or
similar
process,
or
like
relief
if,
in
each
such
case,
subparagraphs (B),
(C)
or
(D)
of
this
paragraph
8
do
not
apply
and
such
involuntary
proceeding
shall
remain
undismissed
and
unstayed
for
a
period
of
thirty
(90)
days,
(B)
filing
by
Borrower
of
an
answer
admitting
the
material
allegations

of
a
petition
filed
against
it
in
any
involuntary
proceeding
commenced
against
it,
(C)
the
commencement
of
a
voluntary
case
or
other
proceeding
seeking
liquidation,
reorganization
or
other
relief
with
respect
to
itself
or
its
debts
under
any
bankruptcy,
insolvency
or
other
similar
law
now
or
hereafter
in
effect
or

seeking
the
appointment
of
a
trustee,
receiver,
liquidator,
custodian
or
other
similar
official
of
it
or
any
substantial
part
of
its
property,
or
consent
to
any
such
relief
or
to
the
appointment
of
or
taking
possession
by
any
such
official
in
an
involuntary
case
or
other
proceeding
commenced
against
it,

or
(D)
consent
by
Borrower
to
any
relief
referred
to
in
this
clause
(h)
or
to
the
appointment
of
or
taking
possession
by
any
such
official
in
any
involuntary
proceeding
commenced
against
it;
or

(i)
anything
analogous
or
having
a
substantially
similar
effect
to
any
of
the
events
specified

above
happens
under
the
law
of
any
applicable
jurisdiction,
including,
without
limitation,
Borrower
taking
any
steps
toward
filing
any
plan
of
arrangement
proceedings
seeking
to
restructure
Borrower's
indebtedness.

"Insurance/Condemnation

and
Disposition
Proceeds
Account"
has
the
meaning
specified
in
the
CTA.

"Insurance

Broker"
means
Arthur
J.
Gallagher
Risk
Management
Services,

LLC
or
any
other
insurance
consultant
reasonably
acceptable
to
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
engaged
by
Borrower
pursuant
to
Section
6.01(d).
(i).

"Insurance
Proceeds"
means,
with
respect
to
any
Casualty
Event,
the
Net
Cash
Proceeds
received
by
any
of
Borrower
from
time
to
time

with
respect
to
such
Casualty
Event.

“Interest
Expense”
means,
for
any
period,
total
interest
expense
(including
that
portion
attributable
to
Capitalized
Leases
in
accordance
with
GAAP,
taking
into
account
any
net
costs
or
net
payments
made
or
received
by
Borrower
under
any
Interest
Rate
Hedge
Agreements)
of
Borrower,
but

excluding,
however,
any
amount
not
payable
in
Cash,
in
each
case
for
such
period.

"Interest
Payment
Date"
means,
with
respect
to
(a) any
Base
Rate
Advance
or
any
fees,
each
March
31,
June
30,
September
30
and
December
31
of
each
year,
commencing
on
the
first
such
date
to
occur

after
the
Funding
Date
and
the
Maturity
Date
of
such
Advance;
and
(b) any
SOFR
Rate
Advance,
the
last
day
of
each
Interest
Period
applicable

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■

to
such
Advance
and,
in
the
case
of
any
Interest
Period
of
more
than
three
months'
duration,

each
day
prior
to
the
last
day
of
such
Interest
Period
that
occurs
at
three
month
intervals
after
the
first
day
of
such
Interest
Period,
and
the
Maturity
Date.

"Interest
Period"
means,
in
connection
with
a
SOFR
Rate
Advance,
the
period
commencing
on
the
date
of
such
Advance
or

Borrowing
and
ending
on
the
numerically
corresponding
day
in
the
calendar
month
that
is
one,
three
or
six
months
thereafter
(in
each
case,
subject
to
the
availability
thereof),
as
selected
by
Borrower
in
the
relevant
Funding
Notice
or
Conversion/Continuation
Notice;
provided
that,
(i) if
an
Interest
Period
would
otherwise
expire
on

a
day
that
is
not
a
Business
Day,
such
Interest
Period
shall
expire
on
the
next
succeeding
Business
Day
unless
no
further
Business
Day
occurs
in
such
month,
in
which
case
such
Interest
Period
shall
expire
on
the
immediately
preceding
Business
Day,
(ii) any
Interest
Period
that
begins
on
the
last

Business
Day
of
a
calendar
month
(or
on
a
day
for
which
there
is
no
numerically
corresponding
day
in
the
calendar
month
at
the
end
of
such
Interest
Period)
shall,
subject
to
sub-
clause (iii),
of
this
definition,
end
on
the
last
Business
Day
of
a
calendar
month,
(iii) no
Interest
Period

with
respect
to
any
portion
of
the
Facility
shall
extend
beyond
the
Maturity
Date
and
(iv)
no
tenor
that
has
been
removed
from
this
definition
pursuant
to
Section
2.08(d)
shall
be
available
for
specification
in
such
Funding
Notice
or
Conversion/Continuation
Notice.
For
purposes
hereof,
the
date
of
an
Advance
or

Borrowing
initially
shall
be
the
date
on
which
such
Advance
or
Borrowing
is
made
and
thereafter
shall
be
the
effective
date
of
the
most
recent
conversion
or
continuation
of
such
Advance
or
Borrowing.

"Interest
Rate
Cap"
shall
mean
14.00%
per
annum
plus
any
increases
in
the
Applicable
Margin
effected

due
to
the
Muni
Bond
Indexation.

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

hedging
the
interest
rate
exposure.

"Interest
Rate
Hedge
Agreement"
means
any
Interest
Rate
Hedge
entered
into
by
Borrower
with
a
Interest
Rate
Hedge
Provider.

"Interest
Rate
Hedge
Provider"
means
any
Person
(other
than
Borrower
or
any
of
its
Affiliates)
that
(a)
is
a
Lender
or
an
Affiliate
of
the

foregoing
at
the
time
of
entering
into
an
Interest
Rate
Hedge
with
Borrower,
or
(b)
is
a
commercial
bank,
insurance
company
or
financial
institution,
or
any
Affiliate
thereof,
whose
long-
term
senior
unsecured
debt
is
rated
(as
of
the
date
such
Person
enters
into
the
applicable
Interest
Rate
Hedge)
at

least
BBB+
by
S&P
and
Baa1
by
Moody's.

"Internal
Revenue
Code"
means
the
United
States
Internal
Revenue
Code
of 1986,
as
amended,
from
time
to
time.

"International
Lending
Office"
means,
with
respect
to
any
Lender,
the
office
of
such
Lender
specified
as
its
"International
Lending
Office"
opposite
its
name
on

Schedule I
or
in
the
Assignment
and
Assumption
pursuant
to
which
it
became
a
Lender
(or,
if
no
such

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■

office
is
specified,
its
Domestic
Lending
Office),
or
such
other
office
of
such
Lender
as
such
Lender
may
from
time
to
time
specify

to
Borrower
and
the
Administrative
Agent.

"Inventory"

means:

(a)
crude
oil,
Renewables
Credit
Support
(as
defined
in
the
Macquarie
Supply
and
Offtake
Agreements)
and
certain
RINs
related
thereto,
refined
products
or
other
hydrocarbon
inventory,
chemicals
and
catalysts,
or
carbon
dioxide
(CO₂)
credits,
in
each
case
owned
by
Borrower
or

stored
or
processed
by,
or
resulting
from
the
processing
of
hydrocarbons
or
Permitted
Feedstock
(as
defined
in
the
Macquarie
Supply
and
Offtake
Agreements)
by,
Borrower
(including
any
of
the
foregoing
in
storage,
in
transit,
in
process
or
in
pipelines
of
the
RDU
Facility),
and
(b)
all
other
property
or
assets

included
within
the
scope
of
the
definition
of
"Inventory"
as
such
term
is
defined
in
the
UCC.

"Inventory
Financing
Collateral"
means
any
of
the
following
assets
of
Borrower,
as
may
be
applicable,
whether
now
owned
or
hereafter
acquired
by
Borrower:
(i)
accounts
receivable
(including
Accounts
(as
such
term
is

defined
in
the
UCC));
(ii)
Inventory;
(iii)
LCFS,
Blenders
Tax
Credits,
RINs,
(iv)
cash,
cash
equivalents,
deposit
accounts
and
securities
accounts
(including
the
Independent
Amount
as
defined
in
the
Macquarie
Supply
and
Offtake
Agreements
and
other
than
the
Trust
Accounts
and
cash,
cash
equivalents
and
investments
held
therein
or
credited

thereto),
(v)
all
instruments,
chattel
paper
and
other
contracts,
in
each
case,
evidencing,
or
substituted
for,
any
accounts
receivable;
(vi)
all
documents
of
title
for
any
Inventory,
all
guarantees,
letters
of
credit,
security,
supporting
obligations
and
other
credit
enhancements
in
each
case
for
any
accounts
receivable;
(vii)
all
commercial
tort

claims
to
the
extent
relating
to
any
of
the
Accounts
or
Inventory;
(viii)
books
and
records
relating
to
the
foregoing;
(ix)
all
Insurance
Proceeds
received
by
Borrower
with
respect
to
Renewables
Credit
Support
and
all
identifiable
cash
proceeds
thereof
in
connection
with
the
Macquarie
Supply
and
Offtake
Agreements;
and
(x)

replacements,
substitutions,
products
and
proceeds
of
the
foregoing.

"Inventory
Financing
Facility"
means:

(a)
the
facility
entered
into
pursuant
to
the
Macquarie
Supply
and
Offtake
Agreements
as
in
effect
as
of
the
Closing
Date
(including
the
transactions
contemplated
thereby
and
entered
into
thereunder
and
in
connection
therewith);

(b)
any

other
intermediation,
supply
and
offtake
or
similar
arrangement
entered
into
by
Borrower
(with
the
Administrative
Agent's
prior
written
consent)
that
provides
for
the
purchase
and/or
sale
by
Borrower
of
Inventory
Financing
Collateral,
and
the
transactions
contemplated
thereby
and
entered
into
thereunder
and
in
connection
therewith
(including
to
the
extent
relating

to
related
financing,
lease
or
loan
transactions
contemplated
thereby),
and

(c)

the
Working
Capital
Facility
or
any
other
asset
based
credit
facility
entered
into
by
Borrower,
in
each
case,
to
the
extent
that
such
facility
provides
for
financing
of
Inventory
Financing
Collateral
of
Borrower;
provided
that,
any
asset
based

credit
facility
(other
than
the
Working
Capital
Facility)
that
provides
for
financing
of
Inventory

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■

Financing
Collateral
shall
be
on
terms
and
conditions
reasonably
acceptable
to
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders).

"Inventory
Financing
Facility
Document"
means

(a)
all
instruments
and
agreements,
“transaction
documents”,
“loan
documents,”
“financing
documents”
and/or
“security
documents”
entered
into
by
Borrower
in
connection
with
an
Inventory
Financing
Facility
and
(b)
each
Interest
Rate
Hedge,
Commodity
Hedge
Agreement
and/or
cash
management
agreement
entered
into
by
Borrower
in
connection
with
an
Inventory
Financing
Facility
that

is
or
is
intended
to
be
secured
by
the
Inventory
Financing
Collateral
and
is
permitted
hereunder
or
by
the
terms
of
the
other
Inventory
Financing
Facility
Documents;
provided
that
Material
Contracts
shall
not
be
Inventory
Financing
Facility
Documents.

"Investment"

means
(a) any
direct
or
indirect
purchase
or
other
acquisition
by

Borrower
of,
or
of
a
beneficial
interest
in,
any
of
the
Securities
of
any
other
Person;
(b) any
direct
or
indirect
redemption,
retirement,
purchase
or
other
acquisition
for
value,
by
Borrower
from
any
Person,
of
any
Equity
Interests
of
such
Person;
and
(c) any
direct
or
indirect
loan,
advance
(other
than
advances

to
employees
for
moving,
entertainment
and
travel
expenses,
drawing
accounts
and
similar
expenditures
in
the
ordinary
course
of
business)
or
capital
contributions
by
Borrower
to
any
other
Person,
including
all
indebtedness
and
accounts
receivable
from
that
other
Person
that
are
not
current
assets
or
did
not
arise
from
sales
to

that
other
Person
in
the
ordinary
course
of
business.
The
amount
of
any
Investment
shall
be
the
original
cost
of
such
Investment
plus
the
cost
of
all
additions
thereto,
without
any
adjustments
for
increases
or
decreases
in
value,
or
write
ups,
write
downs
or
write
offs
with
respect
to

such
Investment.

“Investor”

means

(a)

any

bank,

trust

company,

savings

and

loan

association

or

other

financial

institution

(including,

in

each

case,

any

energy

or

infrastructure

credit

fund

owned

or

managed

by

any

bank,

trust

company,

savings

and

loan

association

or

other

financial

institution),

any

trust,

fund

(including

any

sovereign

wealth
fund)
or
investment
vehicle,
any
pension
plan,
any
insurance
company,
any
broker
or
dealer,
or
any
other
similar
financial
institution
or
entity,
regardless
of
legal
form
and
(b)
any
other
Person
not
reasonably
considered
a
competitor
of
Borrower.

"IRS"

means
the
United
States
Internal
Revenue
Service.

"Joint
Venture"

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

"Lease
Agreement"
means,
that
certain
Ground

Lease,
dated
as
of
April
19,
2023,
by
and
between
Calumet
and
Borrower,
as
evidenced
by
that
certain
Memorandum
of
Ground
Lease,
dated
as
of
April
19,
2023,
to
be
recorded
in
the
Official
Public
Records
of
Cascade
County,
Montana.

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"Lease Agreement
:
Stonebriar"
means
that
certain
Ground
Lease,
dated
as
of
November
18,
2021,
by
and
between
Calumet
and
Borrower,
as
evidenced
by
that
certain
Memorandum
of
Ground
Lease,
dated
November
18,
2021,
recorded
November
19,
2021
as
Document
Number
R0421297
of
the
Official
Public
Records
of
Cascade
County,

Montana,
as
amended
by
that
certain
First
Amendment
to
Ground
Lease,
dated
as
of
September
15,
2022,
as
evidenced
by
that
certain
First
Amendment
to
Memorandum
of
Ground
Lease,
dated
as
of
September
15,
2022,
recorded
September
16,
2022
as
Document
Number
R0435538
of
the
Official
Public
Records
of
Cascade

County,
Montana,
and
as
further
amended
by
that
certain
Second
Amendment
to
Ground
Lease
dated
April
19,
2023.

“Lease
Agreement
Estoppel”
means
that
certain
Ground
Lease
Estoppel
Agreement,
dated
April
19,
2023,
entered
into
by
Calumet
in
favor
of
the
Collateral
Agent
with
respect
to
the
Lease
Agreement.

"Lease Agreement Property"
means
that
certain
real
property
described
on
Schedule
IX.

"Leasehold Mortgage"
has
the
meaning
specified
in
Section
4.01(h)
(i).

"Lenders"
means
the
Initial
Lenders
and
each
Person
that
shall
become
a
Lender
hereunder
pursuant
to
an
Assignment
and
Assumption
for
so
long
as
such
Initial
Lender

or
Person,
as
the
case
may
be,
shall
be
a
party
to
this
Agreement.

"Lender
Parties"
means,
individually
or
collectively,
as
the
context
may
require,
the
Lenders,
the
Administrative
Agent
and
the
Collateral
Agent.

"Lien"
means
(a) any
lien,
mortgage,
deed
of
trust,
deed
to
secure
debt,
pledge,
collateral
assignment,

security
interest,
charge
or
encumbrance
of
any
kind
(including
any
agreement
to
give
any
of
the
foregoing,
any
conditional
sale
or
other
title
retention
agreement,
and
any
lease
or
license
in
the
nature
thereof)
and
any
option,
trust
or
other
preferential
arrangement
having
the
practical
effect
of
any
of
the

foregoing
and
(b) in
the
case
of
Securities,
any
purchase
option,
call
or
similar
right
of
a
third
party
with
respect
to
such
Securities.
For
the
avoidance
of
doubt,
“Lien”
shall
not
include
any
netting
or
set-
off
arrangements
under
any
Contractual
Obligation
(other
than
any
Contractual
Obligation
constituting
Debt
for

Borrowed
Money
or
having
the
effect
of
Debt
for
Borrowed
Money)
otherwise
permitted
under
the
terms
of
this
Agreement.

"Liquidity."
means,
as
of
any
date
of
determination,
(i)
the
aggregate
amount
available
to
be
borrowed
under
the
Working
Capital
Facility
as
of
such
date,
and
(ii)
Borrower's
Unrestricted
Cash

as
of
such
date.

“Loan Documents”
means,
individually
or
collectively,
as
the
context
may
require,
(a) this
Agreement,
(b) the
Notes
(if
any),
(c) each
of the
Security
Documents,
(d)
the
Fee
Letters,
and
(e)
any
other
document
that
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
and
Borrower
agree
in

writing
is
to
be
designated
as
a
“Loan
Document”.

“Macquarie”
means
Macquarie
Energy
North
America
Trading,
Inc.

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■

“Macquarie
Letter
Agreement”
means
that
certain
letter
agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Macquarie,
Borrower
and
the

Collateral
Agent.

“Macquarie
Supply
and
Offtake
Agreements”

means,
whether
one
or

more,
(i)
the
Supply
and
Offtake
Agreement,
dated
as
of
November
2,

2022,
between
Macquarie
and
Borrower;

(ii)
the
Inventory
Sales
Agreement,
dated
November
2,

2022,
and
entered
into
between
Macquarie
and
Borrower,

(iii)
Storage
Facilities
Agreement,
dated

November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(iv)
Fees
and
Adjustment
Letter,
dated
November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(v)
Marketing
and
Sales
Agreement,
dated
November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(vi)
Pledge
and
Security
Agreement
(Feedstock
and
Products),

dated
November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(vii)
Pledge
and
Security
Agreement
(RINs),
dated
November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(viii)
Master
Permitted
Feedstock
and
Renewable
Product
Agreement,
dated
November
2,
2022,
and
entered
into
between
Macquarie
and
Borrower,
(ix)
letter
agreement,

dated
November
2,
2022,
and
entered
into
by
and
among
Stonebriar,
Macquarie
and
Borrower,
(x)
Acknowledgement
Agreement,
dated
November
2,
2022,
entered
into
by
and
among
Macquarie,
Working
Capital
Facility
Agent
and
Borrower,
(xi)
letter
agreement,
dated
as
of
the
Closing
Date,
and
entered
into
by
and
among
Macquarie,
the

Collateral
Trustee
and
Borrower,
and
(xii)
such
other
documents
entered
into
accordance
therewith.

“Major
Maintenance
Expenses”
means,
in
any
period,
costs
and
expenses
for
major
maintenance
that
could
reasonably
be
expected
to
be
incurred
to
maintain
and
operate
the
RDU
Facility
in
accordance
with
Prudent
Industry
Practices
(including
as

a
Delaware
corporation
("Macquarie result
of
any
change
in
law),
but
excluding
(a)
administrative
costs
and
costs
and
expenses
incurred
in
connection
with
the
day-
to-
day
operation
and
maintenance
of
the
RDU
Facility
and
(b)
major
maintenance
costs
and
expenses
that
are
payable
by
other
Persons
under
warranty
or
similar

agreements
or
insurance
policies.

~~“Make-~~
~~Whole~~
~~Amount”~~
shall
mean,
at
the
time
of
computation,
the
present
value
at
such
time
of
(i)
all
required
interest
payable
(except
for
currently
accrued
and
unpaid
interest)
on
the
aggregate
principal
amount
of
the
Advances
subject
to
such
prepayment
or
acceleration
(which
in

the
case
of
an
Acceleration
Event
shall
be
on
the
principal
amount
of
Advances
then
outstanding)
from
the
date
of
such
prepayment
or
acceleration
through
and
including
the
third
anniversary
of
the
Funding
Date
calculated
using
an
interest
rate
equal
to
(x)
the
Term
SOFR
for
an
Interest
Period
of

three
months
in
effect
on
the
third
Business
Day
prior
to
such
prepayment
plus
(y)
the
Applicable
Margin
for
SOFR
Loans
in
effect
as
of
such
prepayment
date,
plus
(ii)
any
Prepayment
Premium
that
would
be
payable
on
the
aggregate
principal
amount
of
the
Advances
subject
to
such
prepayment
if

such
prepayment
were
to
be
made
on
the
day
after
the
third
anniversary
of
the
Funding
Date,
in
each
case,
discounted
to
the
date
of
prepayment
or
acceleration
at
a
rate
equal
to
the
Treasury
Rate
plus
0.50%.

“Margin
Stock”
has
the
meaning
specified
in
Regulation U.

■

“Master Agreement”
means
any
Master
Agreement
published
by
the
International
Swaps
and
Derivatives
Associations,
Inc.

“Master Services Agreement”
means
the
Master
Services
Agreement,
dated
as
of
November
18,
2021,
by
and
between
Borrower
and
Calumet.

“Material Adverse Effect”
means
a
material

adverse
effect
on
(a) the
business,
operations,
properties,
assets
or
condition
(financial
or
otherwise)
of
the
Borrower,
(b) the
ability
of
Borrower
to
fully
and
timely
perform
its
material
Obligations
under
the
Loan
Documents,
or
(c) the
material
rights,
remedies
or
benefits
available
to
the
Agents
and
the
Lender
Parties
under
the

Loan
Documents.
“Material
Contract”
means
each
of
(a)
the
Feedstock
Agreements,
(b)
the
Offtake
Agreements,
(c)
the
Catalyst
Agreement,
(d)
the
Master
Services
Agreement,
(e)
the
Lease
Agreement,
(f)
the
Lease
Agreement
-
Stonebriar,
(g)
the
PTU
Agreements,
(h)
Haldor
License
Agreement,
(i)
any
Replacement
Material
Contract,
and
(j)

any
other
contract,
agreement
or
instrument
entered
into
by
Borrower
after
the
Closing
Date
that
provides
for
the
payment
by
Borrower
(either
individually
or
in
aggregate)
of,
or
the
provision
to
Borrower
of,
or
delivery
by
Borrower
of,
goods
or
services
with
a
value
in
excess
of
the
greater
of

(i)
\$15,000,000
in
any
calendar
year
or
(ii)
five
percent
(5%)
of
trailing
twelve
month
EBITDA,
it
being
acknowledged
and
agreed
that
the
following
shall
not
constitute
Material
Contracts:
(A)
any
contract,
agreement
or
instrument
relating
to
Debt
for
Borrowed
Money,
and
(B)
any
Interest
Rate
Hedge
Agreement
or
Commodity

Hedge
Agreement
(each
such
Contractual
Obligation
described
in
clauses
(i).
and
(j).
an
“Additional
Material
Contract”).

“Maturity
Date”
means
the
date
that
is
five
years
after
the
Closing
Date.

“Measurement
Period”
means
(a)
for
the
first
full
Fiscal
Quarter
after
the
Closing
Date,
a
period
of
one
Fiscal
Quarter

of
Borrower,
(b)
for
the
second
full
Fiscal
Quarter
after
the
Closing
Date,
a
period
of
two
consecutive
Fiscal
Quarters
of
Borrower,
(c)
for
the
third
full
Fiscal
Quarter
after
the
Closing
Date,
a
period
of
three
consecutive
Fiscal
Quarters
of
Borrower,
and
(d)
thereafter,
each
period
of
four
consecutive

Fiscal
Quarters
of
Borrower.

“Moody’s”
means
Moody’s
Investors
Service,
Inc.

“Mortgage”
means
(a)
initially,
that
certain
Mortgage
to
be
entered
into
on
the
Funding
Date,
between
Borrower
and
the
Collateral
Agent,
and
(b)
if
the
context
requires,
any
mortgage
granted
by
Borrower
in
favor
of
Collateral
Agent
with
respect

to
any
Additional
Property.

“Mortgaged
Property.”
means
any
Real
Estate
Assets
then
owned
or
leased
by
Borrower
as
beneficial
owner
and
that
is
subject
to
a
Mortgage.
The
term
“Mortgaged
Property”
shall
include
any
additional
Real
Estate
Asset
mortgaged
in
accordance
with
Section
6.01(i).
(ii).

■

"MultiemployerPlan"

means

any

Employee

Benefit

Plan

which

is

a

"multiemployerplan"

as

defined

in

Section

3(37)

of

ERISA

and

that

is

subject

to

Title

IV

of

ERISA.

"MuniBondCouponRate"

shall

mean

that

interest

rate

applicable

to

the

Initial

Bonds.

“Muni

Bond

Financing”

means

the

Debt

of

Borrower

incurred

pursuant

to

the

Muni

Bond

Financing

Documents.

“Muni

Bond

Financing

Documents”

means

that

certain

(a)

Indenture

of

Trust

to

be

entered

into

between

Cascade

County,

Montana

(the

“Muni

Bond

Issuer”)

and

Wilmington

Trust,

National

Association,

as

trustee

(the

"Bond
Trustee")
pursuant
to
which
the
Muni
Bond
Issuer
has
agreed
to
issue
certain
Solid
Waste
Disposal
and
Sewage
Facilities
Revenue
Bonds
(Montana
Renewables,
LLC
Project)
Series
2023
in
the
aggregate
principal
amount
of
up
to
\$250,000,000
(the
"Initial
Bonds"),
and
(b)
the
Loan
Agreement
to
be
entered
into
between

the
Muni
Bond
Issuer
and
Borrower
pursuant
to
which
the
Muni
Bond
Issuer
will
loan
the
net
proceeds
of
the
Initial
Bonds
to
Borrower
("Muni
Bond
Loan
Agreement").

"Muni
Bond
Indexation"
shall
have
the
meaning
given
to
such
term
in
the
definition
of
"Applicable
Margin".

"Muni
Bond
Issuance
Date"

shall
mean
the
date
of
issuance
of
the
Initial
Bonds.

“Muni
Bond
Loan
Agreement”
shall
have
the
meaning
given
to
such
term
in
the
definition
of
Muni
Bond
Financing
Documents.

“Narrative
Report”
means,
with
respect
to
the
financial
statements
for
which
such
narrative
report
is
required,
a
narrative
report

describing
the
operations
of
Borrower
in
the
form
prepared
for
presentation
to
senior
management
thereof
for
the
applicable
Fiscal
Year
and
for
the
period
from
the
beginning
of
the
then
current
Fiscal
Year
to
the
end
of
such
period
to
which
such
financial
statements
relate.

“Net
Cash
Proceeds”
means:

(a)
with
respect
to
any
Asset
Sale,
the
excess,
if
any,
of
(a) the
sum
of
Cash
and
Cash
Equivalents
received
by
Borrower
in
connection
with
such
Asset
Sale
(including
Business
Interruption
Insurance
Proceeds,
or
payments
in
lieu
thereof,
any
Cash
or
Cash
Equivalents
received
by
way
of
deferred
payment
pursuant

to,
or
by
monetization
of,
a
note
receivable
or
otherwise,
but
only
as
and
when
so
received
and
including
any
proceeds
received
as
a
result
of
unwinding
any
related
Interest
Rate
Hedge
Agreement
in
connection
with
such
related
transaction)
minus
(b) the
sum
of
(1) the
reasonable
out
of
pocket
costs,
fees,

commissions,
premiums
and
expenses
(including
legal
fees
and
expenses)
incurred
by
Borrower
in
connection
with
such
Asset
Sale
to
the
extent
such
amounts
were
not
deducted
in
determining
the
amount
referred
to
in
sub-
clause (a),
(2) federal,
state,
provincial,
foreign
and
local
Taxes
reasonably
estimated
to
be
payable
by
Borrower
(or

their
respective
beneficial
owner)
within
the
current
or
the
immediately
succeeding
tax

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-

year
as
a
result
of
any
gain
recognized
in
connection
therewith
to
the
extent
such
amounts
were
not
deducted
in
determining
the
amount
referred
to
in
sub-
clause (a),
(3) the

principal
amount,
premium
or
penalty,
if
any,
and
interest,
breakage
costs
or
other
amounts
of
any
Debt
(other
than
Debt
under
the
Loan
Documents)
that
is
secured
by
the
Property
subject
to
such
Asset
Sale
and
is
required
to
be
repaid
in
connection
with
such
Asset
Sale,
to
the
extent

such
amounts
were
not
deducted
in
determining
the
amount
referred
to
in
sub-
clause (a),
(4) any
costs
associated
with
unwinding
any
related
Interest
Rate
Hedge
Agreement
in
connection
with
such
transaction
and,
(5) a
reasonable
reserve
determined
by
a
Financial
Officer
of
Borrower
in
its
reasonable
business
judgment
and
to
the
extent

required
under
the
applicable
purchase
agreement
for
any
purchase
price
adjustments
(including
working
capital
adjustments
or
adjustments
attributable
to
seller's
indemnities
and
representations
and
warranties
to
purchaser
in
respect
of
such
Asset
Sale)
expressly
contemplated
by
the
purchase
agreement
relating
to
such
Asset
Sale;

(b)
with
respect
to
the

incurrence
or
issuance
of
any
Debt
by
Borrower
(other
than
Debt
incurred
under
an
Inventory
Financing
Facility,
to
the
extent
relating
to
Inventory
Financing
Collateral),
an
amount
equal
to
(a) the
sum
of
the
Cash
and
Cash
Equivalents
received
by
Borrower
in
connection
with
such
incurrence
or
issuance
(including
any
proceeds

received
as
a
result
of
unwinding
any
related
Interest
Rate
Hedge
Agreement
in
connection
with
such
related
transaction)
minus
(b) the
underwriting
discounts
and
commissions
or
other
similar
payments,
and
other
reasonable
out
of
pocket
costs,
fees,
commissions,
premiums
and
expenses
(including
legal
fees
and
expenses
and
any
costs
associated
with

unwinding
any
related
Interest
Rate
Hedge
Agreement
in
connection
with
such
transaction)
incurred
by
Borrower
in
connection
with
such
incurrence
or
issuance
to
the
extent
such
amounts
were
not
deducted
in
determining
the
amount
referred
to
in
sub-
clause (a);
and

(c)
with
respect
to
any
proceeds
of
or
under

any
casualty
or
property
insurance,
indemnity,
condemnation
awards,
warranty
or
guaranty
(other
than
Business
Interruption
Insurance
Proceeds)
received
by
Borrower
in
connection
with
the
occurrence
of
any
Casualty
Event
or
Event
of
Eminent
Domain,
an
amount
equal
to
(a) the
sum
of
Cash
and
Cash
Equivalents
received
by
Borrower
in
connection

with
such
Casualty
Event
or
Event
of
Eminent
Domain
(including
any
proceeds
received
as
a
result
of
unwinding
any
related
Interest
Rate
Hedge
Agreement
in
connection
with
such
related
transaction)
minus
(b) the
sum
of
(1) the
reasonable
out
of
pocket
costs
and
expenses
(including
legal
fees
and
expenses)
incurred
by
Borrower

in
connection
with
the
collection,
enforcement,
negotiation,
consummation,
settlement,
proceedings,
administration
or
other
activity
related
to
the
receipt
or
collection
of
the
relevant
proceeds
to
the
extent
such
amounts
were
not
deducted
in
determining
the
amount
referred
to
in
sub-
clause (a),
(2) any
costs
associated
with
unwinding
any
related
Interest
Rate

Hedge
Agreement
in
connection
with
such
transaction,
(3) federal,
state,
provincial,
foreign
and
local
Taxes
reasonably
estimated
to
be
payable
by
Borrower
(or
their
respective
beneficial
owner)
within
the
current
or
the
immediately
succeeding
tax
year
as
a
result
of
any
gain
recognized
in
connection
therewith
and
(4)
any
amounts
with

respect
to
any
casualty
or
property
insurance,
indemnity,
condemnation
awards,
warranty
or
guaranty
(other
than
Business
Interruption
Insurance
Proceeds)
received
by
Borrower
in
respect
of
or
which
constitute
Inventory
Financing
Collateral.

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■

"Net
Total
Leverage
Ratio"
means,
for
any
Measurement
Period,

the
ratio
of:

(a)

the
Total
Net
Debt
as
of
the
last
day
of
such
Measurement
Period,
to

(b)

the
following,
whichever
is
applicable:

(i) for

each
Measurement
Period
ending
as
of
June
30,
2023,
September
30,
2023,
and
December
31,
2023,
EBITDA
for
(A)
the
Measurement
Period
ending

on
the
last
day
of
the
Fiscal
Quarter
ending
June
30,
2023
shall
be
deemed
to
be
the
product
of
four
(4)
times
EBITDA
for
the
Fiscal
Quarter
ending
June
30,
2023,
(B)
the
Measurement
Period
ending
on
the
last
day
of
the
Fiscal
Quarter
ending
September
30,
2023
shall

be
deemed
to
be
the
product
of
two
(2)
times
EBITDA
for
the
two
Fiscal
Quarters
ending
September
30,
2023
and
(C)
the
Measurement
Period
ending
on
the
last
day
of
the
Fiscal
Quarter
ending
December
31,
2023
shall
be
deemed
to
be
the
product
of
four-
thirds
(4/3)
times

EBITDA
for
the
three
Fiscal
Quarters
ending
December
31,
2023;
and

(ii) for

each
Measurement
Period
ending
as
of
March
31,
2024,
and
thereafter,
ending
as
of
the
last
day
of
each
Fiscal
Quarter,
the
EBITDA
for
such
Measurement
Period.

"NFIP"

has
the
meaning
specified
in
Section
4.01(f).
(iii).

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

~~“Non-~~
Defaulting
Lender”
means,
at
any
time,
a
Lender
that

is
not
a
Defaulting
Lender.

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

“Notice”
means
a
Funding
Notice
and/or
a
Conversion/Continuation
Notice.

"Obligations"

means
all
obligations
of
every
nature
of
Borrower,
including
obligations
from
time
to
time
owed
to
any
Agent
(including
former
Agents)
or
any
Secured
Party
from
time
to
time
under
any
Loan
Document
(including
Erroneous
Payment
Subrogation
Rights),
whether
for
principal,
interest
(including
interest
which,
but
for
the
filing

of
a
petition
in
bankruptcy
with
respect
to
Borrower,
would
have
accrued
on
any
Obligation,
whether
or
not
a
claim
is
allowed
against
Borrower
for
such
interest
in
the
related
bankruptcy
proceeding),
fees,
expenses,
indemnification
or
otherwise.

“OECD”
means
the
Organization
for
Economic
Cooperation
and
Development.

“OFAC”
means
the

U.S. Department
of
the
Treasury's
Office
of
Foreign
Assets
Control.

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-

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

"OFAC
Violation"
has
the
meaning
specified
in
Section
6.03(n)
(i).

"Officer's
Certificate"
means
a

certificate
of
a
Senior
Financial
Officer
or
of
any
other
officer
of
Borrower
whose
responsibilities
extend
to
the
subject
matter
of
such
certificate.

"Offtake
Agreements"
means
the
agreements
set
forth
on
Schedule
1.01(b)
attached
hereto
under
the
heading
"Offtake
Agreements".

"Ongoing
Work"
means
that
certain
work
described
on
Exhibit

C
to
the
Owner's
Affidavit.

"Operating
and
Maintenance
Expenses"
has
the
meaning
specified
in
the
CTA
(as
in
effect
on
the
date
hereof).

"Organizational
Documents"
means,
with
respect
to
any
Person,
as
applicable,
its
certificate
or
articles
of
incorporation
or
organization,
by
laws,
certificate
of
partnership,
partnership
agreement,

certificate
of
formation,
articles
of
organization,
limited
liability
company
agreement
and/or
operating
agreement,
and
all
shareholder
agreements,
voting
trusts
and
similar
arrangements
applicable
to
any
of
such
Person's
partnership
interests,
limited
liability
company
interests
or
authorized
shares
of
Equity
Interests,
in
each
case
as
amended.

"Other
Connection
Taxes"
means,

with
respect
to
any
Recipient,
Taxes
imposed
as
a
result
of
a
present
or
former
connection
between
such
Recipient
and
the
jurisdiction
imposing
such
Tax
(other
than
connections
arising
from
such
Recipient
having
executed,
delivered,
become
a
party
to,
performed
its
obligations
under,
received
payments
under,
received
or
perfected
a

security
interest
under,
engaged
in
any
other
transaction
pursuant
to
or
enforced
any
Loan
Document,
or
sold
or
assigned
an
interest
in
any
Advance
or
Loan
Document).

"Other
Taxes"
means
all
present
or
future
stamp,
court
or
documentary,
intangible,
recording,
filing
or
similar
Taxes
or
any
other
excise
or

property
taxes,
charges
or
similar
levies
that
arise
from
any
payment
made
under,
from
the
execution,
delivery,
performance,
enforcement
or
registration
of,
from
the
receipt
or
perfection
of
a
security
interest
under,
or
otherwise
with
respect
to,
any
Loan
Document,
except
any
such
Taxes
that
are
Other
Connection
Taxes
imposed

with
respect
to
an
assignment
(other
than
an
assignment
made
pursuant
to
Section
3.07(b)).

"Owner's
Affidavit"
means
that
certain
Owner's
Affidavit
(Commercial),
dated
as
of
the
date
hereof,
from
Borrower
to
Chicago
National
Title
Insurance
Company,
together
with
all
exhibits
and
schedules
attached
thereto.

"Parity
Lien
Debt"
has

the
meaning
specified
in
the
CTA.

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■

“Participant”
has
the
meaning
specified
in
Section
9.05(d).

“Participant
Register”
has
the
meaning
specified
in
Section
9.05(d).

“Patriot
Act”
means
the
Uniting
and
Strengthening
America
by
Providing
Appropriate
Tools
Required
to
Intercept
and

Obstruct
Terrorism
Act
of 2001,
Pub.
L.
107-
56,
signed
into
law
October
26,
2001.

“Payment
Recipient”
has
the
meaning
assigned
to
it
in
Section
8.11(a).

“PBGC”
means
the
Pension
Benefit
Guaranty
Corporation
or
any
successor
thereto.

“Pension
Plan”
means
any
Employee
Benefit
Plan,
other
than
a
Multiemployer
Plan,

which
is
or
was
subject
to
Title IV
or
ERISA,
Section
412
of
the
Internal
Revenue
Code
or
Section
302
of
ERISA.

“Periodic
Term
SOFR
Determination
Day”
has
the
meaning
specified
in
the
definition
of
“Term
SOFR”.

“Permitted
Capital
Expenditures”
means
(a) Required
Capital
Expenditures,
(b) Capital
Expenditures
approved
by
the
board

of
managers
(or
similar
governing
body)
of
Borrower
in
the
Budget
in
accordance
with
Section
6.03(e)
(iii).
and
(c)
other
Capital
Expenditures
to
the
extent
either
(i)
funded
by
Cash
equity
Contributions
received
by
Borrower
(directly
or
indirectly)
from
Holdings
or
Sponsor,
or
(ii)
approved
by
the
Supermajority
Lenders.

"Permitted
Commodity
Hedge
Agreement"
means
any
Commodity
Hedge
Agreement
entered
into
from
time
to
time
by
Borrower
in
compliance
with
Section
6.02(m).
(l).
in
each
case,
as
amended.

"Permitted
Debt"
means
any
Debt
permitted
to
be
incurred
by
Borrower
in
accordance
with
Section
6.02(b).

"Permitted
Investment"
means,
with
respect

to
any
Asset
Sale,
Casualty
Event
or
Event
of
Eminent
Domain,
the
application
of
any
related
Net
Cash
Proceeds
to
rebuild,
repair,
replace,
redesign,
alter
or
otherwise
restore
any
Affected
Property
as
permitted
under
this
Agreement.

"Permitted
Liens"
means:

(a)
Liens
under
the
Security
Documents;

(b)
Liens
incurred

in
favor
of
Stonebriar
pursuant
to
the
Stonebriar
Financing
Documents;
provided,
such
Liens
are
solely
on
Stonebriar
Financed
Equipment
and
the
real
property
leased
to
the
Borrower
pursuant
to
the
Lease
Agreement
-
Stonebriar.

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-

(c)
Liens
incurred
in
favor
of

the
Working
Capital
Facility
Agent
pursuant
to
the
Working
Capital
Financing
Documents
in
respect
of
the
ABL
Priority
Collateral
(as
defined
in
the
Working
Capital
Intercreditor
Agreement).

(d)

Liens
incurred
(i)
in
favor
of
Macquarie
pursuant
to
the
Macquarie
Supply
and
Offtake
Agreements,
or
(ii)
in
connection
with
any

Inventory
Financing
Facility
permitted
hereunder;
provided,
in
each
case,
such
Liens
are
solely
on
Inventory
Financing
Collateral.

(e)

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

(f)

statutory
or
common
law
Liens
of
landlords,
carriers,
warehousemen,
mechanics,
materialmen,
repairmen,
construction
contractors
or

other
like
Liens
arising
in
the
ordinary
course
of
business
which:
(A)
secure
amounts
not
overdue
or
which
are
being
contested
in
good
faith
and
by
appropriate
actions,
if
adequate
reserves
with
respect
thereto
are
maintained
on
the
books
of
the
applicable
Person
in
accordance
with
GAAP
to
the
extent

required
by
GAAP,
and
(B)
individually
or
together
with
all
other
Permitted
Liens
outstanding
on
any
date
of
determination
do
not
materially
adversely
affect
the
Property
to
which
they
relate
or
materially
impair
the
construction,
conversion,
operation
or
maintenance
of
the
RDU
Facility;

(g)
Liens
incurred
in
the
ordinary

course
of
business
in
connection
with
workers'
compensation,
unemployment
insurance
and
other
types
of
social
security
(other
than
Liens
imposed
under
ERISA),
or
to
secure
the
performance
of
tenders,
statutory
obligations,
surety
and
appeal
bonds
(other
than
bonds
related
to
judgment
or
litigation
to
the
extent
such
judgment
or
litigation

constitutes
a
Default),
bids,
leases,
government
contracts,
trade
contracts,
performance
and
return
of
money
bonds
and
other
similar
obligations
(exclusive
of
obligations
for
the
payment
of
Debt
for
Borrowed
Money
or
other
Debt),
so
long
as:
(A)
no
foreclosure,
sale
or
similar
proceedings
have
been
commenced
with
respect
to
any

material
portion
of
Property
of
Borrower,
(B)
such
Liens
do
not
exceed
\$500,000
in
the
aggregate
at
any
time,
and
(C)
which
Lien
is
contemplated
to
be
released
within
270
days
of
its
attachment;

(h)
easements,
rights-
of-
way,
restrictions,
title
imperfections,
encroachments,
other
minor
defects
or
irregularities
in

title
and
similar
matters
if
the
same
do
not
materially
detract
from
the
operation
or
use
of
the
RDU
Facility
in
the
ordinary
conduct
of
the
business
of
Borrower
and
does
not
render
title
to
the
Property
encumbered
thereby
unmarketable;

(i)

(A)
any
interest
or
title
of
a
licensor,

lessor
or
sublicensor
or
sublessor
under
any
lease
(including
a
ground
lease)
or
license
permitted
by
this
Agreement,
(B)
any
Lien
or
restriction
that
the
interest
or
title
of
such
lessor,
licensor,
sublessor
or
sublicensor
may
be
subject
to
and
(C)
to
the
extent
constituting
a
Lien,
leases,
licenses,
subleases

or
sublicenses
granted
to
others
that
do
not
materially
interfere
with
the
ordinary
conduct
of
the
business
of
Borrower;

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■

(j)
Liens
solely
on
any
cash
earnest
money
deposits
made
by
Borrower
in
connection
with
any
letter
of
intent
or
purchase

agreement
permitted
hereunder;

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

(l)
Liens
in
favor
of
customs
and
revenue
authorities
arising
as
a
matter
of
law
to
secure
payment

of
customs
duties
in
connection
with
the
importation
of
goods;

(m)
encumbrances
on
real
property
in
the
nature
of
any
zoning
restrictions,
building
and
land
use
laws,
ordinances,
orders,
decrees,
restrictions
or
any
other
conditions
imposed
by
any
Governmental
Authority
on
any
Real
Estate
Asset,
if
the
same
does

not
have
a
materially
adverse
effect
on
the
operation
or
use
of
the
RDU
Facility
in
the
ordinary
conduct
of
the
business
of
Borrower;

(n)

non-
exclusive
licenses
or
 sublicenses
of
patents,
copyrights,
trademarks
and
other
intellectual
property
rights
granted
by
Borrower
in
the
ordinary
course
of
business
and

not
interfering
in
any
material
respect
with
the
ordinary
conduct
of
or
materially
detracting
from
the
value
of
the
business
of
Borrower;

(o)

any
exceptions
on
any
mortgage
policies,
surveys,
title
reports,
title
commitments,
endorsements
or
other
similar
documents
related
to
the
properties
listed
on
Schedule
1.01(a)
that
(A)

are
not
monetary
in
nature,
(B)
do
not
secure
Debt
and
(C)
do
not
materially
interfere
with
the
use,
value
or
operation
of
the
RDU
Facility
in
the
ordinary
conduct
of
the
business
of
Borrower
and
does
not
render
title
to
the
Property
encumbered
thereby
unmarketable;

(p)
Liens
or

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

(q)
purchase
money
Liens
upon
or
in
real
property
or
equipment
acquired
or
held
by
Borrower
in
the
ordinary
course
of
business
securing
the
purchase
price
of
such
property
or
equipment
or

to
secure
Debt
incurred
solely
for
the
purpose
of
financing
the
acquisition,
construction
or
improvement
of
any
such
property
or
equipment
to
be
subject
to
such
Liens,
or
Liens
existing
on
any
such
property
or
equipment
at
the
time
of
acquisition
(other
than
any
such
Liens
created
in
contemplation
of

such
acquisition
that
do
not
secure
the
purchase
price),
or
extensions,
renewals
or
replacements
of
any
of
the
foregoing
for
the
same
or
a
lesser
amount;
provided
that
no
such
Lien
shall
extend
to
or
cover
any
property
other
than
the
property
or
equipment
being
acquired,
constructed
or
improved,
and

no
such
extension,
renewal
or
replacement
shall
extend
to
or
cover
any
property
not
therefore
subject
to
the
Lien
being
extended,
renewed
or
replaced;
provided
further
that
the
aggregate
principal
amount
of
the
Debt
secured
by
Liens
permitted
by
this
clause (g),
shall
not
exceed
the
amount
permitted
under
Section
6.02(b).

(vii).
at
any
time
outstanding;

(r)
Liens
arising
under
Capitalized
Leases
permitted
under
Section
6.02(b).

(vi);
provided
that
no
such
Lien
shall
extend
to
or
cover
any
Collateral
or
Property
other
than
the
Property
subject
to
such
Capitalized
Leases;

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■

(s)
Liens
securing
judgments
(or
the
payment
of
money
not
constituting
an
Event
of
Default
under
Section
7.01(h))
or
securing
appeal
or
other
surety
bonds
related
to
such
judgments
so
long
as
an
appeal
or
proceeding
for
review
is
being
prosecuted
in
good
faith
and
for
the
payment
of
which

adequate
reserves,
bonds
or
other
security
reasonably
acceptable
to
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
have
been
provided
or
are
fully
covered
by
insurance;

(t)

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

similar
rights;

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

(v)
Liens
or
pledges
of
deposits
of
Cash
or
Cash

Equivalents
in
an
amount
not
to
exceed
in
aggregate
\$1,000,000
with
third
parties
other
than:
(i)
the
Collateral
Agent,
and
(ii)
Working
Capital
Facility
Agent
with
respect
to
the
Working
Capital
Collections
Account;

(w)
(A)
Liens
existing
on
the
Closing
Date
and
listed
on
Schedule
III,
and
(B)
Liens

arising
under
Contractual
Obligations
listed
on
Schedule IV;

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

(y)
other
Liens
incident

to
the
ordinary
course
of
business
that
are
not
incurred
in
connection
with
the
incurrence
of
any
Debt
or
to
secure
obligations
under
Permitted
Commodity
Hedge
Agreements
and
that
do
not
in
the
aggregate
materially
impair
the
construction
or
use
of
the
Property
of
Borrower
in
the
manner
contemplated
by

the
Transaction
Documents,
or
the
use
of
such
Property
for
the
purposes
of
such
business,
in
respect
of
an
aggregate
amount
of
obligations
with
a
value
not
to
exceed
the
greater
of
(x)
\$15,000,000
or
(y)
five
percent
(5%)
of
trailing
twelve
month
EBITDA
at
any
one
time;
and

(z)

Liens
which
are
exceptions
to
the
Title
Policy
or
on
any
subsequent
title
insurance
policy
issued
in
favor
of
the
Collateral
Agent
pursuant
to
the
terms
of
this
Agreement;
provided,
that,
notwithstanding
the
foregoing,
in
no
event
shall
mechanics,
materialmen,
or
other
Liens
arising
out
of
the
following
exception

contained
in
the
Title
Policy
constitute
a
"Permitted
Lien"
unless
discharged
of
record
(by
payment,
bonding
or
otherwise)
promptly
after
Borrower
receives
notice
thereof.

"Permitted
Tax
Payments"
means
customary
tax
distributions
to
the
members
of
the
Borrower
and
the
members
of
Holdings
intended
to
be
sufficient
to
enable
them

to
pay,
on
a
quarterly
basis,
federal,
state
and
local
taxes
arising
from
the
allocations
made
to
such
members,
computed
in
the
following
manner:
for
any
taxable
period
(or
portion
thereof)
following
the
Closing
Date,
the
product
of
(1)
the
taxable
income
generated
by
Borrower
for
such
period
(calculated
taking

into
account
deductibility
of
state
and
local
taxes
to
the

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■

extent
applicable)
reduced,
but
not
below
zero,
by
any
tax
deduction,
loss
or
credit
previously
or
currently
allocated
and
not
previously
taken
into
account
for
purposes
of
the
calculation
of
the

amount
of
any
tax
distribution;
provided,
that
any
adjustments
by
reason
of
Sections
734
or
743
of
the
Internal
Revenue
Code
shall
not
be
taken
into
account
in
calculating
the
amount
of
any
tax
distribution,
and
(2)
the
maximum
combined
marginal
U.S.
federal,
state
and/or
local
income
tax
rate
applicable

to
an
individual
resident
in
New
York,
New
York
or
a
corporation
resident
in
Delaware
(in
each
case,
taking
into
account
the
net
investment
income
tax),
whichever
is
greater,
in
respect
of
income
recognized
during
the
relevant
tax
period.

"Permitted
Transferee"
means
(i)
a
Lender,
(ii)
an
Affiliate
of

a
Lender,
(iii)
an
Approved
Fund,
and
(iv)
an
Investor.

“Person”
means
and
includes
natural
persons,
corporations,
limited
partnerships,
general
partnerships,
limited
liability
companies,
limited
liability
partnerships,
joint
stock
companies,
Joint
Ventures,
associations,
companies,
trusts,
banks,
trust
companies,
land
trusts,
business
trusts
or
other
organizations,
whether
or
not
legal

entities,
and
Governmental
Authorities.

“Plan
Asset
Regulation”
means
29
CFR
§2510.3-
101,
as
modified
by
Section
3(42)
of
ERISA.

“Platform”
has
the
meaning
specified
in
Section
9.01(d).
(i).

“Pledge
Agreement”
means
that
certain
Membership
Interest
Pledge
Agreement,
dated
on
or
about
the
date
hereof,
entered
into
between
Holdings

and
the
Collateral
Agent.

“Pledged
Equity
Interests”
has
the
meaning
specified
in
each
Pledge
Agreement.

“Prepayment
Premium”
has
the
meaning
specified
in
Section
2.04(a).

“Pretreatment
Facilities”
means
the
pretreatment
unit
that
is
designed
to
remove
contaminants
such
as
chlorides,
metals,
and
other
impurities
in
order
to
prevent
shortened

life
of
the
renewable
diesel
processing
unit
catalyst,
related
equipment
and
facilities
and
the
real
property
upon
which
it
is
located.

"Prime
Rate"
means
the
rate
of
interest
last
quoted
by
The
Wall
Street
Journal
as
the
"Prime
Rate"
in
the
U.S.
or,
if
The
Wall
Street
Journal
ceases

to
quote
such
rate,
the
highest
per
annum
interest
rate
published
by
the
Board
of
Governors
in
Federal
Reserve
Statistical
Release
H.15
(519)
(Selected
Interest
Rates)
as
the
“bank
prime
loan”
rate
or,
if
such
rate
is
no
longer
quoted
therein,
any
similar
rate
quoted
therein
(as
determined
by
the

Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders))
or
any
similar
release
by
the
Board
of
Governors
(as
determined
by
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders)).

“Pro
Forma
Net
Leverage
Ratio
-
Forecast”
means
the
ratio
of:

(a)

Total
Net
Debt
calculated
as
of
the
last
day
of
the
most
recently
ended
Fiscal
Quarter
after
giving
pro
forma
effect
to
the
incurrence
of
the
relevant
Permitted
Debt,
to

(b)

EBITDA
forecasted
in
good
faith
and
based
on
reasonable
assumptions
by
Borrower
for
the

next
four
Fiscal
Quarters,
which
forecast
shall
be
in
form
and
substance
satisfactory
to
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
and
shall
be
accompanied
by
a
certificate
from
a
Responsible
Officer
certifying
that
the
forecasts
made
are
based
on
reasonable
assumptions
that
are
factually
supportable.

“Pro
Forma
Net
Leverage
Ratio
-
Historical”
means
the
ratio
of:

(a)
Total
Net
Debt
calculated
as
of
the
last
day
of
the
most
recently
ended
Fiscal
Quarter
after
giving
pro
forma
effect
to
the
incurrence
of
the
relevant
Permitted
Debt,
to

(b)
EBITDA
for
each
of
the
last

four
Fiscal
Quarters.

“Pro

Rata
Share”
means,
with
respect
to
any
amount,
with
respect
to
any
Lender
at
any
time
and
with
respect
to
the
Facility,
the
product
of
such
amount
multiplied
by
a
fraction
the
numerator
of
which
is
the
amount
of
Advances
owed
to
such
Lender
under

the
Facility
at
such
time
and
the
denominator
of
which
is
the
aggregate
amount
of
the
Advances
then
outstanding
and
owed
to
all
Lenders
under
the
Facility
at
such
time.

“Project
Costs”
means
for
any
period,
the
sum,
computed
without
duplication,
of
all
costs
and
expenses
incurred
in
connection

with
the
development,
design,
engineering,
procurement,
construction,
conversion,
equipping,
assembly,
inspection,
testing,
completion,
and
start-
up
of
the
sustainable
aviation
fuel
expansion
as
contemplated
by
the
SAF
Expansion
Budget;
provided,
that,
it
is
understood
and
agreed
that
payments
of
principal,
interest
and
other
fees
and
expenses
under
this
Facility
shall

not
be
a
Project
Cost.

"Project
Revenue"
means
all
amounts
received
or
receivable
for
the
account
of
Borrower
from
operation
of
the
RDU
Facility
including
revenues
arising
under
the
Macquarie
Supply
and
Offtake
Agreements;
provided,
that,
Project
Revenue
shall
not
include
any
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain

Proceeds
and
Contract
Termination
Proceeds.

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

"Prudent
Industry
Practice"
means
those
practices,

methods,
techniques,
specifications
and
standards
of
safety
and
performance,
as
they
may
be
modified
from
time
to
time,
that
(a) are
generally
accepted
in
the
large-
scale
RDU
Facility
industry
as
good,
safe
and
prudent
engineering
practices
in
connection
with
the
design,
construction,
operation,
maintenance,
repair
or
use
of
large-
scale

RDU
Facility
facilities
which
are
similar
to
the
RDU
Facility
and
(b) are
otherwise
in
compliance
in
all
material
respects
with
applicable
law
and
Governmental
Authorizations.
Prudent
Industry
Practice
is
not
intended
to
be
limited
to
the
optimum
practice,
method
or
act
to
the
exclusion
of
all
others,

but
rather
to
be
acceptable
practices,
methods
or
acts
generally
accepted
in
the
region
or
as
required
by
any
Governmental
Authority
or
standards
setting
agency.

“PTE”
means
a
prohibited
transaction
class
exemption
issued
by
the
U.S.
Department
of
Labor,
as
any
such
exemption

may
be
amended
from
time
to
time.

“PTU
Agreements”
means
the
agreements
set
forth
on
Schedule
1.01(b)
attached
hereto
under
the
heading
“PTU
Agreements”.

“Qualified
Replacement
Party”
means,
with
respect
to
any
Replacement
Material
Contract,
a
Person
that
has
at
least
substantially
similar
credit
quality
and
experience
as
the

counterparty
to
the
Material
Contract
that
such
Person
is
replacing
(measured
based
on
such
counterparty's
credit
quality
and
experience
on
the
date
on
which
it
entered
into
the
Material
Contract
being
replaced),
in
each
case,
as
reasonably
determined
by
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders).

“Quarterly
Payment
Date”
means
the
last
Business
Day
of
March,
June,
September
and
December.

“RDU
Facility.”
has
the
meaning
assigned
to
such
term
in
the
recitals.

“
RDU
Facility
Site
”
means
that
certain
real
Property
described
on
Schedule
V.

“Real
Estate
Assets”
means,
at
any
time
of

determination,
any
fee
or
leasehold
interest,
easement,
consent,
permit
or
license,
then
owned
or
held
by
Borrower
in
any
real
property.

“Real
Estate
Documents”
means,
collectively,
the
Lease
Agreement
and
each
deed,
agreement,
easement,
declaration,
license,
lease,
permit,
revocable
consent
and
other
document
or
instrument
specified
on
Schedule II,
as

the
same
may
be
amended
from
time
to
time
in
accordance
with
the
terms
hereof.

“Recipient”

means
(a) each
Agent
and
(b) any
Lender,
as
applicable.

“Refinance”

means,
in
respect
of
any
Debt,
(a) such
Debt
(in
whole
or
in
part)
as
extended,
renewed,
defeased,
refinanced,
replaced,
refunded
or
repaid
and
(b) any

other
Debt
issued
in
exchange
or
replacement
for
or
to
refinance
such
Debt
(in
whole
or
in
part),
whether
with
the
same
or
different
lenders,
arrangers
and/or
agents
and
whether
with
a
larger
or
smaller
aggregate
principal
amount
and/or
a
longer
or
shorter
maturity,
in
each
case
to
the
extent

permitted
under
the
terms
of
all
of
the
Loan
Documents.
“Refinanced”
and
“Refinancing”
shall
have
correlative
meanings.

“Refinery”
means
the
crude
oil
refinery
located
adjacent
to
the
RDU
Facility
in
Great
Falls,
Montana.

“Register”
has
the
meaning
specified
in
Section
9.05(c).

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

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

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

"Regulation

X"

means

Regulation

X

of

the

Board

of

Governors,

as

in

effect

from

time

to

time.

"Reinvestment

Notice"

means

a

written

notice

executed

by

a

Responsible

Officer

of

Borrower

in

connection

with

the

occurrence

of

any

Asset

Sale,

Casualty

Event,

Event

of

Eminent

Domain

or

an

event

giving

rising
to
Contract
Termination
Proceeds
stating
that
(a) no
Default
or
Event
of
Default
has
occurred
and
is
continuing,
to
the
extent
received
by
Borrower,
the
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
in
respect
of
which
such
notice
is
being
delivered
have
been
deposited
in

the
Insurance/Condemnation
and
Disposition
Proceeds
Account
for
further
application
in
accordance
with
Section
2.04(b).
(ii).
and
the
CTA,
(b) that
Borrower
intends
to
reinvest
all
or
a
portion
of
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
to
make
a
Permitted
Investment,
and
(c)
with
respect

to
proceeds
arising
from
a
Casualty
Event
or
Event
of
Eminent
Domain,
attaching
a
restoration
budget
(the
"Restoration
Budget")
prepared
by
Borrower
and
determined
to
be
reasonable
by
the
Independent
Engineer
and
identifying
all
categories
and
approximate
amounts
reasonably
anticipated
to
be
incurred
in
connection
with
such
rebuilding,
repairing,
replacing,

redesigning,
altering
or
otherwise
restoring
the
Affected
Property,
together
with
a
statement
of
uses
of
proceeds
of
the
Insurance/Condemnation
and
Disposition
Proceeds
Account
and
any
other
monies
necessary
to
complete
such
rebuilding,
restoration,
or
replacement
of
the
Affected
Property,
and
(B)
a
restoration
plan
(the
"Restoration
Plan")
prepared
by
Borrower

and
determined
to
be
reasonable
by
the
Independent
Engineer
and
describing
in
reasonable
detail
its
plan
for
completing
such
rebuilding,
repair,
replacement,
redesign,
alteration
or
otherwise
restoration
of
the
Affected
Property.

“Related
Parties”
means,
with
respect
to
any
Person,
such
Person's
Affiliates
and
the
partners,
directors,
officers,
employees,
agents,

trustees,
administrators,
managers,
advisors
and
representatives
of
such
Person
and
of
such
Person's
Affiliates.

"Release"

means
any
release,
spill,
emission,
leaking,
pumping,
pouring,
injection,
escaping,
deposit,
disposal,
discharge,
dispersal,
dumping,
leaching
or
migration
of
any
Hazardous
Material
into
the
indoor
or
outdoor
environment
(including
the
abandonment
or
disposal
of

any
barrels,
containers
or
other
closed
receptacles
containing
any
Hazardous
Material),
including
the
movement
of
any
Hazardous
Material
through
the
air,
soil,
surface
water
or
groundwater.

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“Relevant
Governmental
Body.”
means
the
Federal
Reserve
Board
or
the
Federal
Reserve
Bank
of

New
York,
or
a
committee
officially
endorsed
or
convened
by
the
Federal
Reserve
Board
or
the
Federal
Reserve
Bank
of
New
York,
or
any
successor
thereto.

“Reliance
Letters”
means,
collectively,
(a)
that
certain
reliance
letter,
dated
as
of
the
Closing
Date,
by
the
Independent
Engineer
in
favor
of
the

Administrative
Agent
and
the
Lenders
party
hereto,
and
(b)
that
certain
reliance
letter,
dated
as
of
the
Closing
Date,
by
Environmental
Resources
Management
Southwest,
Inc.
in
favor
of
the
Administrative
Agent,
the
Collateral
Agent
and
the
Lenders
party
hereto.

“Removal
Effective
Date”
shall
have
the
meaning
specified
in

Section

8.06(a).

"Renewable

Diesel

Unit"

means

a

renewable

diesel

unit

that:

(a)

has

a

nameplate

capacity

of

12,000

barrels

per

stream

day

and

fresh

feed

capacity

of

11,000

barrels

per

stream

day

based

on

100%

soybean

oil;

(b)

owned

or

leased

by

Borrower;

(c)

supporting

the

RDU

Facility;

(d)

located
on
the
Mortgaged
Property,
and
(e)
operated
by
Borrower
or
Calumet
pursuant
to
the
Master
Services
Agreement.

“Repayment
Event”
means
the
repayment
in
full
of
all
of
the
outstanding
principal
amount
of
the
Advances
and
all
other
monetary
Obligations
(other
than
contingent
obligations)
due
and
payable
under
the

Loan
Documents.
"Replacement
Inventory
Financing
Facility."
means,
with
respect
to
any
Inventory
Financing
Facility,
including
the
Macquarie
Supply
and
Offtake
Agreements,
and
the
liabilities
and/or
Debt
thereunder,
any
successor
Inventory
Financing
Facility
entered
into
by
Borrower
in
replacement
of
such
liabilities
and/or
Debt,
including
without
limitation,
an
amendment
to

the
Working
Capital
Facility
Credit
Agreement
to
provide,
or
any
successor
asset-
based
loan
facility
that
provides,
for
financing
of
Inventory
Financing
Collateral;
provided
that,
the
terms
relating
to
principal
amount,
amortization,
maturity,
interest
rate,
collateral
(if
any)
and
subordination,
standstill
and
related
terms
(if
any),
and
other
material
terms

taken
as
a
whole,
of
any
such
Replacement
Inventory
Financing
Facility,
and
of
any
agreement
entered
into
and
of
any
instrument
issued
in
connection
therewith,
are
reasonably
acceptable
to
the
Required
Lenders.

“Replacement
Inventory
Financing
Facility
Cap”
means,
for
any
Replacement
Inventory
Financing
Facility,
an
amount
up
to
the

lesser
of
(a)
the
product
of
(i)
250,000
barrels,
multiplied
by
(ii)
four
(4),
multiplied
by
(iii)
the
Feedstock
Market
Price
at
execution
of
the
documentation
for
such
Replacement
Inventory
Financing
Facility,
and
(b)
\$200,000,000;
provided
that,
if
the
Replacement
Inventory
Financing
Facility
is
accomplished
by
amending
the
Working
Capital

Facility
Credit
Agreement
to
provide,
or
any
successor
asset-
based
loan
facility
that
provides,
for
financing
of
Inventory
Financing
Collateral,
the
aggregate
maximum
commitments
of
\$90,000,000
under
the
Working
Capital
Facility
Credit
Agreement
existing
as
of
the
Closing
Date
or
similar
commitments
in
respect
of
accounts
under
any
successor
asset-

based
loan
facility
shall
not
be
considered
in
determining
compliance
with
the
Replacement
Inventory
Financing
Facility
Cap.

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■

“Replacement
Material
Contract”
means,
in
respect
of
any
Material
Contract,
any
contract
or
agreement
that
(a)
is
entered
into
by
Borrower
in
replacement

for
such
Material
Contract,
(b)
has
substantially
similar
or
more
favorable
economic
effect
on
Borrower
and
substantially
similar
or
more
favorable
non-
economic
terms
(taken
as
a
whole)
for
Borrower
as
the
Material
Contract
being
replaced,
as
determined
by
the
Administrative
Agent
(acting
on
reasonable
instructions
from
the
Required
Lenders),

and
(c)
is
with
one
or
more
Qualified
Replacement
Parties.

“Required
Capital
Expenditures”
means
all
Capital
Expenditures
required
to
comply
with
any
applicable
laws
and
regulations
(or
interpretations
thereof),
or
any
changes
in
Prudent
Industry
Practice
with
which
Borrower
is
obligated
to
comply
under
any
Material
Contract,
in
each

case
taking
effect
after
the
date
hereof
and
relating
to
the
RDU
Facility
(including
any
Environmental
Laws).

“Required
Lenders”
means,
at
any
time,
the
Lender
or
Lenders
holding
more
than 50%
of
the
sum
of
(without
duplication)
the
aggregate
principal
amount
of
the
Advances
outstanding
at
such
time;
provided
that,

if
any
Lender
shall
be
a
Defaulting
Lender
at
such
time,
there
shall
be
excluded
from
the
determination
of
Required
Lenders
at
such
time
the
aggregate
principal
amount
of
the
Advances
owing
to
such
Lender
(in
its
capacity
as
a
Lender)
and
outstanding
at
such
time;
provided
further
that
(1)

neither
Borrower
nor
any
Sponsor-
Related
Party
shall
at
any
time
constitute
a
"Lender"
for
purposes
of
this
definition
and
(2) any
portion
of
the
aggregate
principal
amount
of
the
Advances
outstanding
at
such
time
held
by
Affiliated
Debt
Funds
in
excess
of
an
amount
equal
to
49.9%
of
all
aggregate

principal
amount
of
the
Advances
outstanding
at
such
time
of
all
Lenders
shall
be
excluded
in
determining
"Required
Lenders"
for
any
purpose
under
the
Loan
Documents
(and
each
individual
Affiliated
Debt
Fund's
vote
shall
be
reduced
on
a
pro
rata
basis
to
account
for
such
exclusion).

"Resignation
Effective
Date"

shall
have
the
meaning
specified
in
Section
8.06(a).

"Responsible
Officer"
means,
as
to
any
Person,
any
individual
holding
the
position
of
chairman
of
the
board
(if
an
officer),
president,
chief
executive
officer
or
one
of
its
vice
presidents
and
such
Person's
treasurer
or
chief
financial
officer.

"Restricted
Payment"
means

(a) any
dividend
or
other
distribution,
direct
or
indirect,
on
account
of
any
Equity
Interest
of
Borrower
now
or
hereafter
outstanding;
(b) any
redemption,
retirement,
sinking
fund
or
similar
payment,
purchase
or
other
acquisition
for
value,
direct
or
indirect,
of
any
Equity
Interest
of
Borrower
now
or
hereafter
outstanding;
(c) any
payment
made

to
retire,
or
to
obtain
the
surrender
of,
any
outstanding
warrants,
options
or
other
rights
to
acquire
shares
of
any
Equity
Interest
of
Borrower
now
or
hereafter
outstanding;
(d) management
or
similar
fees
payable
to
Borrower's
Affiliates;
and
(e) any
payment
or
prepayment
of
principal
of,
premium,
if
any,
or
interest
on,

or
redemption,
purchase,
retirement,
defeasance
(including
in
substance
or
legal
defeasance),
sinking
fund
or
similar
payment
with
respect
to,
any
Debt
owed
by
Borrower
to
any
of
its
Affiliates.

"Revenue
Account"
has
the
meaning
specified
in
the
CTA.

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■

"RIN"
means

a
renewable
identification
number
generated
to
represent
a
volume
of
renewable
fuel
as
set
forth
in
Regulation
of
Fuels
and
Fuel
Additives:
Changes
to
Renewable
Fuel
Standard
Program,
75
Fed.
Reg.
16484
(March
26,2010)
(codified
at
40
C.F.R.
§
80.1425
(2011);
40
C.F.R.
§
80.1426
(2012)),
as
amended
from
time

to
time.

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

"SAF
Expansion
Budget"
means
a
budget
setting
forth
all
expected
Project
Costs
through
the
end
of
construction
of
the
sustainable
aviation
fuel
expansion
and
delivered
to
the
Administrative
Agent
in
accordance
with

and
as
updated
pursuant
to
Section
4.01(a)
(ix)
and/or
Section
6.03(f).

“Sale
Leaseback”
means
any
transaction
or
series
of
related
transactions
pursuant
to
which
Borrower
(a)
sells,
transfers
or
otherwise
disposes
of
any
property,
real
or
personal,
whether
now
owned
or
hereafter
acquired,
and
(b)
as
part
of
such

transaction,
thereafter
rents
or
leases
such
property
or
other
property
that
it
intends
to
use
for
substantially
the
same
purpose
or
purposes
as
the
property
being
sold,
transferred
or
disposed
of.

"Sanctions"
has
the
meaning
specified
in
Section
5.01(bb)
(i).

"Secured
Obligations"
means
"Parity
Lien
Obligations"
as
such

term
is
defined
in
the
CTA.

"Secured
Parties"
means
the
"Parity
Lien
Secured
Parties"
as
such
term
is
defined
in
the
CTA.

"Securities"
means
any
stock,
shares,
partnership
interests,
voting
trust
certificates,
certificates
of
interest
or
participation
in
any
profit
sharing
agreement
or
arrangement,
options,
warrants,
bonds,
debentures,
notes,

or
other
evidences
of
indebtedness,
secured
or
unsecured,
convertible,
subordinated
or
otherwise,
or
in
general
any
instruments
commonly
known
as
“securities”
or
any
certificates
of
interest,
shares
or
participations
in
temporary
or
interim
certificates
for
the
purchase
or
acquisition
of,
or
any
right
to
subscribe
to,
purchase
or
acquire,
any

of
the
foregoing.

"Securities
Account"
means
any
"securities
account"
as
defined
in
the
UCC.

"Security
Agreement"
means
the
Security
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Borrower
and
the
Collateral
Agent.

"Security
Documents"
means
the
Security
Agreement,
the
Pledge
Agreement,
the
CTA,
the

Working
Capital
Intercreditor
Agreement,
the
Mortgage,
the
Consents,
each
Control
Agreement,
Macquarie
Letter
Agreement,
each
other
Parity
Lien
Security
Document
(as
such
term
is
defined
in
the
CTA),
and
each
other
agreement
required
to
be
delivered
by
Borrower
or
Holdings
pursuant
to
the
terms
of
this
Agreement
that
creates
or

purports
to
create
a
Lien
in
favor
of
the
Collateral
Agent
for
the
benefit
of
the
Secured
Parties
to
secure
the
Secured
Obligations.

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-

"Senior
Financial
Officer"
means
the
Chief
Financial
Officer,
Principal
Accounting
Officer,
Vice
President,
Finance
Treasurer
or
Comptroller

of
Borrower.
“SOFR”
means
a
rate
equal
to
the
secured
overnight
financing
rate
as
administered
by
the
SOFR
Administrator.

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

“SOFR
Borrowing”
means,
as
to
any
Borrowing,
the
SOFR

Rate
Advances
comprising
such
Borrowing.

"SOFR
Rate
Advance"
means
an
Advance
(or
any
portion
thereof)
that
bears
interest
as
provided
in
Section
2.05(a).
(ii).

"Solvency
Certificate"
has
the
meaning
specified
in
Section
4.02(a).
(iii).

"Solvent"
or
"Solvency."
means,
with
respect
to
any
Person,
as
of
the
date
of

determination,
both
(a)
(i) the
sum
of
such
Person's
Debt
(including
contingent
liabilities)
does
not
exceed
the
present
fair
saleable
value
of
such
Person's
present
assets
(taken
as
a
whole);
(ii) such
Person's
capital
(taken
as
a
whole)
is
not
unreasonably
small
in
relation
to
their
business
as
contemplated
on
the
applicable

date
of
determination;
and
(iii) such
Person
(taken
as
a
whole)
has
not
incurred
and
do
not
intend
to
incur,
or
believe
(nor
should
they
reasonably
believe)
that
it
will
incur,
Debt
beyond
its
ability
to
pay
such
Debt
as
they
become
due
(whether
at
maturity
or
otherwise);
and
(b) such
Person

(taken
as
a
whole)
is
“solvent”
within
the
meaning
given
that
term
and
similar
terms
under
the
Bankruptcy
Code,
and
applicable
laws
relating
to
fraudulent
transfers
and
conveyances.
For
purposes
of
this
definition,
the
amount
of
any
contingent
liability
at
any
time
shall
be
computed
as
the
amount
that,
in

light
of
all
of
the
facts
and
circumstances
existing
at
such
time,
represents
the
amount
that
can
reasonably
be
expected
to
become
an
actual
or
matured
liability
(irrespective
of
whether
such
contingent
liabilities
meet
the
criteria
for
accrual
under
GAAP).

"Specified
Debt
Documents"
means:
(a)
the
Macquarie
Supply
and

Offtake
Agreements
or
any
other
Inventory
Financing
Facility
Documents,
if
any,
(b)
the
Stonebriar
Financing
Documents,
if
any,
(c)
from
and
after
the
Muni
Bond
Issuance
Date,
the
Muni
Bond
Financing
Documents,
(d)
the
Working
Capital
Financing
Documents,
if
any,
(e)
any
other
Parity
Lien
Documents
(as
defined
in
the

CTA),
and
(f)
any
other
agreements
entered
into
in
connection
with
Debt
that
is
issued
in
exchange
or
replacement
for
or
to
Refinance
Debt
incurred
pursuant
to
the
foregoing
Specified
Debt
Documents.

"Specified
Intercompany
Debt"
shall
mean
the
Intercompany
Loan
Agreement,
dated
as
of
January
5,
2023,
between

Borrower,
as
borrower,
and
Sponsor,
as
lender
(as
in
effect
on
the
date
hereof).

"Specified
Material
Contracts"
means
(a)
the
Master
Services
Agreement,
(b)
the
Lease
Agreement,
(c)
the
Lease
Agreement
-
Stonebriar,
(d)
the
Catalyst
Agreement,
(e)

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-

the
PTU

Agreements,
(f)
the
Haldor
License
Agreement,
(g)
Feedstock
Agreements,
(h)
Offtake
Agreements,
and
(i)
and
any
Replacement
Material
Contracts
thereof.

"Sponsor"
means
Calumet
Specialty
Products
Partners,
L.P.

"Sponsor-
Related
Party"
means
the
Sponsor
and
any
Affiliate
thereof
(other
than
Affiliated
Debt
Funds)
but
shall
exclude
Borrower.

"Stonebriar"
shall

mean
Stonebriar
Commercial
Finance
LLC.

“Stonebriar
Consent”
shall
mean
that
certain
Lessor
Consent
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Stonebriar,
Borrower
and
the
Collateral
Agent.

“Stonebriar
Debt”
means
Debt
incurred
by
Borrower
under
the
Stonebriar
Financing
Documents.

“Stonebriar
Escrow
Agreement”
means
that

certain
Documentation
Undertakings
and
Escrow
Agreement
dated
on
or
about
the
date
hereof
by
and
among
Borrower
and
Stonebriar.

"Stonebriar
Escrow
Release
Date"
means
the
date
following
the
delivery
of
the
Release
Notice
(as
defined
in
the
Stonebriar
Escrow
Agreement)
on
which
all
agreements
and
other
documentation
set
forth

in
Section
2
of
the
Stonebriar
Escrow
Agreement
have
been
executed
and/or
delivered,
as
applicable.

“Stonebriar
Escrowed
Property”
means
that
certain
property
described
on
Schedule
X
attached
hereto.

“Stonebriar
Financed
Equipment”
means,
collectively,
the
Schedule
1
Equipment,
the
Schedule
2
Equipment
and
the
IFA
Equipment
(as
each
such
term

is
defined
in
the
definition
of
Stonebriar
Financing
Documents).

“Stonebriar
Financing
Documents”
means,
collectively:

(a)
the
Stonebriar
Master
Lease
Agreement;

(b)
Equipment
Schedule
No.
1
dated
as
of
December
30,
2022
 (“Schedule
1”),
between
Borrower
and
Stonebriar
relating
to
a
hydrogen
plant
of
the
Borrower
(the
“Schedule

1
Equipment”);

(c)
Equipment
Schedule
No.
2
dated
as
of
August
5,
2022
(“Schedule
2”),
between
Borrower
and
Stonebriar
relating
to
the
Hydrocracker
Facilities
(the
“Schedule
2
Equipment”);

(d)
the
Interim
Funding
Agreement
between
Stonebriar
and
Borrower,
dated
August
5,
2022
(the
“Interim
Funding
Agreement”),
relating
to
the
Pretreatment

Facilities
(the
"IFA
Equipment");
and

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■

(e)
the
Holdback
Agreement,
dated
December
30,
2022
(the
"Holdback
Agreement")
entered
into
between
Borrower
and
Stonebriar.

"Stonebriar
Master
Lease
Agreement"
means
that
certain
Master
Lease
Agreement,
dated
December
31,
2021,
entered
into
between
Borrower,

as
lessee,
and
Stonebriar,
as
lessor,
pursuant
to
which
Stonebriar
purchased
from
and
leased
back
to
Borrower
the
Stonebriar
Financed
Equipment.

"Stonebriar
Property."
means
that
certain
property
described
on
Schedule
VI
attached
hereto.

"Subsidiary"
means,
with
respect
to
any
Person,
any
corporation,
partnership,
limited
liability
company,
association,
Joint
Venture

or
other
business
entity
of
which
more
than 50%
of
the
total
voting
power
of
shares
of
stock
or
other
ownership
interests
entitled
(without
regard
to
the
occurrence
of
any
contingency)
to
vote
in
the
election
of
the
Person
or
Persons
(whether
directors,
managers,
trustees
or
other
Persons
performing
similar
functions)

having
the
power
to
direct
or
cause
the
direction
of
the
management
and
policies
thereof
is
at
the
time
owned
or
Controlled,
directly
or
indirectly,
by
that
Person
or
one
or
more
of
the
other
Subsidiaries
of
that
Person
or
a
combination
thereof.
Unless
otherwise
specified,
all
references
herein
to

a
“Subsidiary”
or
to
“Subsidiaries”
shall
refer
to
a
Subsidiary
or
Subsidiaries
of
Borrower.

“Supermajority
Lenders”
means,
at
any
time,
the
Lender
or
Lenders
holding
more
than 75%
of
the
sum
of
(without
duplication)
the
aggregate
principal
amount
of
the
Advances
outstanding
at
such
time;
provided
that,
if
any
Lender

shall
be
a
Defaulting
Lender
at
such
time,
there
shall
be
excluded
from
the
determination
of
Required
Lenders
at
such
time
the
aggregate
principal
amount
of
the
Advances
owing
to
such
Lender
(in
its
capacity
as
a
Lender)
and
outstanding
at
such
time;
provided
further
that
(1)
neither
Borrower
nor

any
Sponsor-
Related
Party
shall
at
any
time
constitute
a
"Lender"
for
purposes
of
this
definition
and
(2) any
portion
of
the
aggregate
principal
amount
of
the
Advances
outstanding
at
such
time
held
by
Affiliated
Debt
Funds
in
excess
of
an
amount
equal
to
49.9%
of
the
aggregate
principal
amount
of

the
Advances
outstanding
at
such
time
of
all
Lenders
shall
be
excluded
in
determining
“Required
Lenders”
for
any
purpose
under
the
Loan
Documents
(and
each
individual
Affiliated
Debt
Fund’s
vote
shall
be
reduced
on
a
pro
rata
basis
to
account
for
such
exclusion).

“Surplus
Account”
has
the
meaning
given

thereto
in
the
CTA.

“Surplus
Funds”
shall
mean,
on
any
date
of
determination,
the
funds
on
deposit
in
the
Surplus
Account
at
such
time.

“Target
Debt
Balance
Amount”
means,
at
any
date
of
determination,
the
amount
set
forth
in
the
column
entitled
“Target
Debt
Balance”
on
Schedule
VIII.

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

■

“Term
SOFR”
means,

(a)
for
any
calculation
with
respect
to
a
SOFR
Rate
Advance,
the
Term
SOFR
Reference
Rate
for
a
tenor
comparable
to
the
applicable
Interest
Period
on
the
day
(such
day,
the
“Periodic
Term
SOFR
Determination
Day.”)
that
is

two
(2)
U.S.
Government
Securities
Business
Days
prior
to
the
first
day
of
such
Interest
Period,
as
such
rate
is
published
by
the
Term
SOFR
Administrator;
provided,
however,
that
if
as
of
5:00
p.m.
(New
York
City
time)
on
any
Periodic
Term
SOFR
Determination
Day,
the
Term
SOFR
Reference
Rate

for
the
applicable
tenor
has
not
been
published
by
the
Term
SOFR
Administrator
and
a
Benchmark
Replacement
Date
with
respect
to
the
Term
SOFR
Reference
Rate
has
not
occurred,
then
Term
SOFR
will
be
the
Term
SOFR
Reference
Rate
for
such
tenor
as
published
by
the
Term
SOFR
Administrator
on

the
first
preceding
U.S.
Government
Securities
Business
Day
for
which
such
Term
SOFR
Reference
Rate
for
such
tenor
was
published
by
the
Term
SOFR
Administrator
so
long
as
such
first
preceding
U.S.
Government
Securities
Business
Day
is
not
more
than
three
(3)
U.S.
Government
Securities
Business
Days
prior
to
such

Periodic
Term
SOFR
Determination
Day,
and

(b)

for
any
calculation
with
respect
to
an
Base
Rate
Advance
on
any
day,
the
Term
SOFR
Reference
Rate
for
a
tenor
of
one
month
on
the
day
(such
day,
the
“ABR
Term
SOFR
Determination
Day.”)
that
is
two
(2)
U.S.
Government
Securities

Business
Days
prior
to
such
day,
as
such
rate
is
published
by
the
Term
SOFR
Administrator;
provided,
however,
that
if
as
of
5:00
p.m.
(New
York
City
time)
on
any
ABR
Term
SOFR
Determination
Day
the
Term
SOFR
Reference
Rate
for
the
applicable
tenor
has
not
been
published
by
the

Term
SOFR
Administrator
and
a
Benchmark
Replacement
Date
with
respect
to
the
Term
SOFR
Reference
Rate
has
not
occurred,
then
Term
SOFR
will
be
the
Term
SOFR
Reference
Rate
for
such
tenor
as
published
by
the
Term
SOFR
Administrator
on
the
first
preceding
U.S.
Government
Securities
Business
Day
for
which

such
Term
SOFR
Reference
Rate
for
such
tenor
was
published
by
the
Term
SOFR
Administrator
so
long
as
such
first
preceding
U.S.
Government
Securities
Business
Day
is
not
more
than
three
(3)
U.S.
Government
Securities
Business
Days
prior
to
such
ABR
SOFR
Determination
Day.

provided.
further,
that
if
Term

SOFR
determined
as
provided
above
(including
pursuant
to
the
proviso
under
clause
(a)
or
clause
(b)
above)
shall
ever
be
less
than
the
Floor,
then
Term
SOFR
shall
be
deemed
to
be
the
Floor

“Term
SOFR
Administrator”
means
CME
Group
Benchmark
Administration
Limited
(CBA)
(or
a
successor
administrator
of

the
Term
SOFR
Reference
Rate
selected
by
the
Administrative
Agent
in
its
reasonable
discretion).

"Title
Policy"
has
the
meaning
specified
in
Section
4.01(h).
(iv).

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

"Total
Credit
Exposure"
means,
as
to
any
Lender
at
any
time,

the
outstanding
Advances
of
such
Lender
at
such
time.

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-

"Total
Net
Debt"
means,
as
of
any
date
of
determination,
(a)
the
aggregate
principal
amount
of
Debt
of
Borrower
outstanding
on
such
date
that
is
secured
by
a
Lien
on
the

assets
of
Borrower
that
is
not
expressly
subordinated
to
the
Liens
securing
the
Facilities
on
the
Closing
Date
minus
(b)
the
aggregate
amount
of
Unrestricted
Cash,
in
each
case,
as
of
such
date;
provided,
that,
Total
Net
Debt
shall
not
include
any
Debt
owed
under
the
Macquarie
Supply
and
Offtake

Agreements
or
any
Replacement
Inventory
Financing
Facility
(but
in
respect
of
any
such
Replacement
Inventory
Financing
Facility,
only
to
the
extent
attributable
to
Inventory
Financing
Collateral
thereunder).

“Transaction
Documents”
means,
individually
or
collectively,
as
the
context
may
require,
the
Loan
Documents
and
the
Material
Contracts.

“Transactions”
means,
collectively,
(a)

the
execution,
delivery
and
performance
by
Borrower
and
Holdings
of
the
Loan
Documents
to
which
they
are
a
party
and,
in
each
case,
the
other
transactions
contemplated
therein
or
thereby,
(b)
the
borrowing
of
the
Advances
hereunder
and
the
use
of
proceeds
thereof,
(c)
the
payment
of
fees
and
expenses

to
be
paid
on
or
prior
to
the
Funding
Date
and
owing
in
connection
with
the
foregoing,
and
(d)
the
other
transactions
to
occur
on
or
prior
to
the
Funding
Date
pursuant
to
the
Transaction
Documents.

"Treasury
Rate"
means,
as
of
the
date
of
any
repayment,
Refinancing
or
repricing

of
the
type
described
in
Section
2.04(a)
(i).
Section
2.04(a)
(ii).
Section
2.04(b)
(iii).
or
Section
3.07(b),
the
yield
to
maturity
as
of
such
date
of
repayment,
Refinancing
or
repricing
of
the
Advances
of
the
most
recently
issued
United
States
Treasury
securities
with
a
constant
maturity
(as
compiled
and
published

in
the
most
recent
Federal
Reserve
Statistical
Release
H.15
(519)
that
has
become
publicly
available
at
least
two
Business
Days
prior
to
such
date
(or,
if
such
Statistical
Release
is
no
longer
published,
any
publicly
available
source
of
similar
market
data))
most
nearly
equal
to
the
period
from
such
date

to
the
two-
year
anniversary
of
the
Closing
Date;
provided,
however,
that
if
the
period
from
such
date
to
the
two-
year
anniversary
of
the
Closing
Date
is
less
than
one
year,
the
weekly
average
yield
on
actually
traded
United
States
Treasury
securities
adjusted
to
a
constant
maturity
of
one

year
will
be
used.

“Trust
Account”
has
the
meaning
specified
in
the
CTA.

“Type”
refers
to
the
distinction
between
portions
of
the
Advances
bearing
interest
at
the
Base
Rate
and
portions
of
the
Advances
bearing
interest
at
Term
SOFR.

“UCC”
means
the
Uniform Commercial
Code
as
in
effect
from

time
to
time
in
the
State
of
New
York;
provided
that
if,
with
respect
to
any
filing
statement
or
by
reason
of
any
provisions
of
law,
the
perfection
or
the
effect
of
perfection
or
non-
perfection
of
the
security
interests
granted
to
the
Collateral
Agent
pursuant
to
the
applicable
Security

Document
is
governed
by
the
Uniform Commercial
Code
as
in
effect
in
a
jurisdiction
of
the
United
States
other
than
New
York,
UCC
means
the
Uniform Commercial
Code
as
in
effect
from
time
to
time
in
such
other
jurisdiction
for
purposes
of
the
provisions
of
each
Loan
Document
and
any
filing
statement

relating
to
such
perfection
or
effect
of
perfection
or
non-
perfection.

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■

“Unadjusted
Benchmark
Replacement”
means
the
applicable
Benchmark
Replacement
excluding
the
related
Benchmark
Replacement
Adjustment.

“Unrestricted
Cash”
means
Cash
or
Cash
Equivalents
of
Borrower
that
would
not
appear
as
“restricted”

on
a
balance
sheet
of
Borrower;
provided,
that
it
is
understood
and
agreed
that
the
Cash
or
Cash
Equivalents
deposited
in
the
Working
Capital
Collections
Accounts
and
the
Trust
Accounts
shall
not
be
considered
as
"restricted".

"U.S.
Government
Securities
Business
Day"
means
any
day
except
for
(a)
a
Saturday,

(b)
a
Sunday
or
(c)
a
day
on
which
the
Securities
Industry
and
Financial
Markets
Association
recommends
that
the
fixed
income
departments
of
its
members
be
closed
for
the
entire
day
for
purposes
of
trading
in
United
States
government
securities.

"US Person"
means
any
Person
that
is
a
"United
States

Person”
as
defined
in
Section
7701(a)
(30)
of
the
Internal
Revenue
Code.

“Wells
Fargo
Collections
DACA”
mean
that
certain
Amended
and
Restated
Deposit
Account
Control
Agreement,
dated
on
the
date
hereof,
and
entered
into
between
the
Borrower,
the
Working
Capital
Facility
Agent,
the
Collateral
Agent
and
Working
Capital
Bank,

with
respect
to
the
Working
Capital
Collections
Account.

“Wells
Fargo
Operating
DACA”
mean
that
certain
Deposit
Account
and
Sweep
Investment
Control
Agreement,
dated
on
the
date
hereof,
and
entered
into
between
the
Borrower,
the
Collateral
Agent
and
Working
Capital
Bank,
with
respect
to
the
Working
Capital
Operating
Account.

“Wells
Fargo
Transfer
DACA”
mean
that
certain
Deposit
Account
Control
Agreement,
dated
on
the
date
hereof,
and
entered
into
between
the
Borrower,
the
Collateral
Agent
and
Working
Capital
Bank,
with
respect
to
the
Working
Capital
Transfer
Account.

“Withholding
Agent”
means
Borrower
and
the
Administrative
Agent.

“Working
Capital
Bank”
mean

Wells
Fargo
Bank,
N.A.,
as
bank

“Working
Capital
Collections
Account”
shall
mean
that
certain
account
entitled
“Montana
Renewables,
LLC
Collections
Account”
with
account
number
4043716943
at
the
Working
Capital
Bank.

“Working
Capital
Operating
Account”
shall
mean
that
certain
account
entitled
“Montana
Renewables,
LLC
Operating
Account”
with
account
number
4043716935

at
the
Working
Capital
Bank.

“Working,
Capital
Facility.”
means
the
asset-
based
revolving
credit
facility
established
pursuant
to
the
Working
Capital
Financing
Documents.

“Working,
Capital
Facility
Agent”
means
Wells
Fargo
Bank,
National
Association,
in
its
capacity
as
agent
for
the
lenders
under
the
Working
Capital
Facility
Credit
Agreement,
and

any
successor
thereto
or
replacement
thereof.

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■

“Working
Capital
Facility
Credit
Agreement”
means
the
Credit
Agreement
dated
as
of
November
2,
2022,
entered
into
among
Borrower,
Holdings,
the
lenders
party
thereto
from
time
to
time,
and
the
Working
Capital
Facility
Agent,

as
the
same
may
be
amended,
restated,
amended
and
restated,
supplemented
or
otherwise
modified
from
time
to
time
in
accordance
with
this
Agreement.

"Working.

Capital
Financing
Documents"
means:

(a)
the
Working
Capital
Facility
Credit
Agreement,

and
(b)
Loan
Documents

(as
such
term
is
defined
in
the
Working
Capital
Facility

Credit
Agreement
on
the
date
hereof).

“Working
Capital
Intercreditor
Agreement”
means
that
certain
Intercreditor
Agreement
dated
as
of
the
date
hereof
by
and
among
the
Borrower,
Holdings,
the
Working
Capital
Facility
Agent
and
the
Collateral
Agent.

“Working
Capital
Standing
Instructions”
has
the
meaning
given
to
such
term
in

Section

6.02(v).

"Working,

Capital

Transfer

Account"

shall

mean

that

certain

account

entitled

"Montana

Renewables,

LLC

Collections

Account"

with

account

number

4836767111

at

the

Working

Capital

Bank.

"Write-

Down

and

Conversion

Powers"

means,

with

respect

to

any

EEA

Resolution

Authority,

the

write-

down

and

conversion

powers

of

such

EEA

Resolution

Authority
from
time
to
time
under
the
Bail-
In
Legislation
for
the
applicable
EEA
Member
Country,
which
write-
down
and
conversion
powers
are
described
in
the
EU
Bail-
In
Legislation
Schedule.

“Zip
Map”
has
the
meaning
specified
in
Section
4.01(h)
(v).

SECTION

1.02 Rules
of
Interpretation.
Except
as
otherwise
expressly

provided,
the
following
rules
of
interpretation
shall
apply
to
this
Agreement
and
the
other
Loan
Documents:

(a)

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

(b)

whenever
the
context
may
require,
any
pronoun
shall
include
the
corresponding
masculine,
feminine

and
neuter
forms;

(c)

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

(d)

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

(e)

unless
the
context
requires
otherwise,
any
definition
of

or
reference
to
any
agreement,
instrument
or
other
document
herein
(including
any
Loan
Document)
shall
be
construed
as
referring
to
such
agreement,
instrument
or
other
document
as
from
time
to
time
amended,
amended
and
restated,
supplemented
and/or
otherwise
modified
or
replaced

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-

from
time
to
time
(subject
to
any
restrictions
on
such
amendments,
amendments
and
restatements,
supplements
and/or
other
modifications
or
replacements
set
forth
herein
or
therein)
and
shall
include
any
appendices,
schedules,
exhibits,
clarification
letters,
side
letters
and
disclosure
letters
executed
in
connection
therewith;

(f)
any
reference
herein
to
any

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

(g)

the
words
"herein",
"hereof"
and
"hereunder",
and
words
of
similar
import,
shall
be

construed
to
refer
to
this
Agreement
in
its
entirety
and
not
to
any
particular
provision
hereof;

(h)

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

(i)

the
words
“asset”

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

(j)
unless
the
context
requires
otherwise,
any
definition
of
or
reference
to
any
law
or
regulation
shall

be
construed
as
referring
to
such
law
or
regulation
as
from
time
to
time
amended,
supplemented
or
otherwise
modified;

(k)

any
reference
herein
to
a
merger,
transfer,
consolidation,
amalgamation,
consolidation,
assignment,
sale,
disposition
or
transfer,
or
similar
term,
shall
be
deemed
to
apply
to
a
division
of
or
by

a
limited
liability
company,
limited
partnership
or
trust,
or
an
allocation
of
assets
to
a
series
of
a
limited
liability
company,
limited
partnership
or
trust
(or
the
unwinding
of
such
a
division
or
allocation),
as
if
it
were
a
merger,
transfer,
consolidation,
amalgamation,
consolidation,
assignment,
sale
or
transfer,
or
similar

term,
as
applicable,
to,
of
or
with
a
separate
Person;
and

(l)
any
division
of
a
limited
liability
company,
limited
partnership
or
trust
shall
constitute
a
separate
Person
hereunder.

SECTION

1.03Accounting Terms.

(a)
All
accounting
terms
not
specifically
or
completely
defined
herein
shall
be
construed
in
conformity
with,

and
all
financial
data
(including
financial
ratios
and
other
financial
calculations)
required
to
be
submitted
pursuant
to
this
Agreement
shall
be
prepared
in
conformity
with,
GAAP,
as
in
effect
from
time
to
time,
except
as
otherwise
specifically
prescribed
herein.

(b)

If
at
any
time
any
change
in
GAAP
or

the
application
thereof
would
affect
the
computation
of
any
requirement
set
forth
in
any
Loan
Document,
and
either
Borrower
or
the
Required
Lenders
through
the
Administrative
Agent
shall
so
request,
the
Required
Lenders
and
Borrower
shall
negotiate
in
good
faith
to
amend
such
requirement
to
preserve
the
original
intent

thereof
in
light
of
such
change
in
GAAP
or
the
application
thereof
(subject
to
the
approval
of
the
Administrative
Agent
not
to
be
unreasonably
withheld,
conditioned
or
delayed);
provided
that,
until
so
amended,
(i) such
requirement
shall
continue
to
be
computed
in
accordance

with
GAAP
or
the
application
thereof
prior
to
such
change
therein
and
(ii) Borrower
shall
provide
to
the
Administrative
Agent
and
the
Lenders
a
written
reconciliation
in
form
and
substance
reasonably
satisfactory
to
the
Required
Lenders,
between
calculations
of
such
ratio
or
requirement
made
before
and
after
giving
effect
to
such

change
in
GAAP
or
the
application
thereof.

SECTION

1.04 Certifications.

Etc.

All
certifications,
notices,
declarations,
representations,
warrants
and
statements
made
by
any
officer,
director
or
employee
or
Borrower
pursuant
to
or
in
connection
with
this
Agreement
shall
be
made
in
such
Person's
capacity
as
officer,
director
or
employee
on
behalf

of
Borrower
and
not
in
such
Person's
individual
capacity.

SECTION

1.05 Divisions.

For
all
purposes
under
the
Loan
Documents,
in
connection
with
any
division
or
plan
of
division
under
Delaware
law
(or
any
comparable
event
under
a
different
jurisdiction's
laws):
(a)
if
any
asset,
right,
obligation
or
liability
of
any

Person
becomes
the
asset,
right,
obligation
or
liability
of
a
different
Person,
then
it
shall
be
deemed
to
have
been
transferred
from
the
original
Person
to
the
subsequent
Person,
and
(b)
if
any
new
Person
comes
into
existence,
such
new
Person
shall
be
deemed
to
have
been
organized
on
the

first
date
of
its
existence
by
the
holders
of
its
Equity
Interests
at
such
time.

SECTION

1.06 Rates.
The
Administrative
Agent
does
not
warrant
or
accept
responsibility
for,
and
shall
not
have
any
liability
with
respect
to
(a)
the
continuation
of,
administration
of,
submission
of,
calculation
of
or
any
other

matter
related
to
Base
Rate,
the
Term
SOFR
Reference
Rate
or
Term
SOFR,
or
any
component
definition
thereof
or
rates
referred
to
in
the
definition
thereof,
or
any
alternative,
successor
or
replacement
rate
thereto
(including
any
Benchmark
Replacement),
including
whether
the
composition
or
characteristics
of
any
such
alternative,
successor
or

replacement
rate
(including
any
Benchmark
Replacement)
will
be
similar
to,
or
produce
the
same
value
or
economic
equivalence
of,
or
have
the
same
volume
or
liquidity
as,
Base
Rate,
the
Term
SOFR
Reference
Rate,
Term
SOFR
or
any
other
Benchmark
prior
to
its
discontinuance
or
unavailability,
or
(b)
the
effect,

implementation
or
composition
of
any
Conforming
Changes.
The
Administrative
Agent
and
its
Affiliates
or
other
related
entities
may
engage
in
transactions
that
affect
the
calculation
of
Base
Rate,
the
Term
SOFR
Reference
Rate,
Term
SOFR,
any
alternative,
successor
or
replacement
rate
(including
any
Benchmark
Replacement)
or
any
relevant
adjustments
thereto,

in
each
case,
in
a
manner
adverse
to
the
Borrower.
The
Administrative
Agent
may
select
information
sources
or
services
in
its
reasonable
discretion
to
ascertain
Base
Rate,
the
Term
SOFR
Reference
Rate,
Term
SOFR,
or
any
other
Benchmark,
in
each
case
pursuant
to
the
terms
of
this
Agreement,
and
shall

have
no
liability
to
Borrower,
Holdings,
any
Lender
or
any
other
person
or
entity
for
damages
of
any
kind,
including
direct
or
indirect,
special,
punitive,
incidental
or
consequential
damages,
costs,
losses
or
expenses
(whether
in
tort,
contract
or
otherwise
and
whether
at
law
or
in
equity),
for
any
error
or

calculation
of
any
such
rate
(or
component
thereof)
provided
by
any
such
information
source
or
service.

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ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES

SECTION

2.01 The Advances.

(a)

Each
Lender
severally
agrees,
on
the
terms
and
conditions
hereinafter

set
forth
in
Section
4.01
and
4.02,
to
make
a
single
advance
(the
“Advance”)
to
Borrower
on
the
Funding
Date
in
an
amount
equal
to
its
ratable
share
(based
upon
the
respective
amounts
of
the
Lenders’
Commitments
at
such
time)
of
the
aggregate
Borrowing
requested
in
the
Funding
Notice
delivered

under
Section
2.02,
provided
that
the
Advance
to
be
made
by
each
Lender
shall
not
exceed
such
Lender's
Commitment
at
such
time.

(b)

The
Borrowing
shall
consist
of
the
Advance
extended
and
made
simultaneously
by
the
Lenders
ratably
according
to
their
Commitments
on
the
Funding
Date.

(c)

Amounts
borrowed

under
this
Section
2.01
and
repaid
or
prepaid
may
not
be
re-
borrowed.

SECTION

2.02 Making
the
Advances.

(a)

Except
as
provided
in
clause (b).
below,
the
Borrowings
shall
be
made
on
irrevocable
notice,
given
not
later
than 12:00
noon
(New
York
City
time)
fifteen
(15)
Business
Days
(or
such
shorter
time

as
may
be
agreed
to
by
the
Lenders)
prior
to
the
date
of
the
proposed
Borrowing,
by
Borrower
to
the
Administrative
Agent,
which
shall
give
to
each
Lender
prompt
notice
thereof
by
telecopier
or
electronic
communication.
Each
such
irrevocable
notice
of
a
Borrowing
(a
"Funding
Notice")
shall
be
in
writing,

including
by
telecopier
or
electronic
communication,
in
substantially
the
form
of
Exhibit C,
specifying
therein
the
requested
(i) date
of
such
Borrowing,
(ii)
Type
of
Advance
comprising
such
Borrowing,
(iii) aggregate
amount
of
such
Borrowing
and
(iv) in
the
case
of
a
Borrowing
consisting
of
a
SOFR
Rate
Advance,
the
initial
Interest
Period
for

such
Advance.
Borrower
hereby
agrees
that
the
Advances
included
in
the
Funding
Notice
will
be
in
an
aggregate
amount
of
\$75,000,000.
Each
Lender
shall,
before
12:00
noon
(New
York
City
time)
on
the
date
of
such
Borrowing,
make
available
by
wire
transfer
for
the
account
of
its
Applicable
Lending
Office

to
the
Administrative
Agent
at
the
Administrative
Agent's
Account,
in
same
day
funds,
such
Lender's
ratable
portion
of
such
Borrowing,
in
accordance
with
its
Commitments
under
the
Facility.
After
the
Administrative
Agent's
receipt
of
such
funds
and
upon
fulfillment
or
waiver
of
the
applicable
conditions
set
forth
in
Article
IV.

the
Administrative
Agent
will
make
such
funds
available
to
Borrower
on
the
Funding
Date
in
accordance
with
the
applicable
Funds
Flow
Memorandum.

(b)

Unless
the
Administrative
Agent
shall
have
received
notice
from
a
Lender
prior
to
the
date
of
any
Borrowing
that
such
Lender
will
not
make
available
to

the
Administrative
Agent
such
Lender's
ratable
portion
of
such
Borrowing,
the
Administrative
Agent
may
assume
that
such
Lender
has
made
such
portion
available
to
the
Administrative
Agent
on
the
date
of
such
Borrowing
in
accordance
with
clause (a).
above
and
the
Administrative
Agent
may,
in
reliance
upon
such
assumption,
make
available

to
Borrower
on
such
date
a
corresponding
amount.
If
and
to
the
extent
that
such
Lender
shall
not
have
so
made
such
ratable
portion
available
to
the

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-

Administrative
Agent,
the
Administrative
Agent
shall
be
entitled
to
recover
such
corresponding
amount
on

demand
from
such
Lender
together
with
interest
thereon,
for
each
day
from
such
date
of
Borrowing
until
the
date
such
amount
is
paid
to
the
Administrative
Agent,
at
the
greater
of
the
Federal
Funds
Effective
Rate
and
a
rate
determined
by
the
Administrative
Agent
in
accordance
with
banking
industry
rules

on
interbank
compensation.
If
such
Lender
does
not
pay
such
corresponding
amount
forthwith
upon
the
Administrative
Agent's
demand
therefor,
the
Administrative
Agent
shall
promptly
notify
Borrower,
and
Borrower
shall
immediately
pay
such
corresponding
amount
to
the
Administrative
Agent
together
with
interest
thereon,
for
each
day
from
the
date
of
such

Borrowing
until
the
date
such
amount
is
paid
to
the
Administrative
Agent,
at
the
rate
payable
hereunder
for
a
Base
Rate
Advance
under
the
Facility.

(c)

The
failure
of
any
Lender
to
make
any
Advance
to
be
made
by
it
as
part
of
a
Borrowing
shall
not
relieve
any

other
Lender
of
its
obligation,
if
any,
hereunder
to
make
its
Advance
on
the
date
of
such
Borrowing,
but
no
Lender
shall
be
responsible
for
the
failure
of
any
other
Lender
to
make
the
Advance
to
be
made
by
such
other
Lender
on
the
date
of
any
Borrowing.
Nothing
in

this
Section
2.02
shall
prejudice
any
rights
that
Borrower
may
have
against
a
Defaulting
Lender.

SECTION

2.03 Repayment
of
Advances
Borrower
shall
repay
to
the
Administrative
Agent
for
the
ratable
account
of
the
Lenders
the
outstanding
principal
amount
of
the
Advances
on
each
Quarterly
Payment
Date
occurring
prior
to
the

Maturity
Date
(commencing
with
the
first
Quarterly
Payment
Date
occurring
after
the
Funding
Date)
in
the
amount
of
0.25%
of
the
total
principal
amount
of
the
Advances
outstanding
on
such
Quarterly
Payment
Date
(which
amounts,
in
each
case,
shall
be
reduced
as
a
result
of
the
application
of
prepayments
in

accordance
with
Section
2.04);
provided
that
the
Advances
shall
be
repaid
in
full
on
the
Maturity
Date.

SECTION

2.04 Prepayments

(a)

Optional;
Call
Protection.

(i) Subject

to
Section
2.04(a)
(ii).
Borrower
may,
at
any
time
and
from
time
to
time,
upon
at
least
one
Business
Day's
written
notice
in
the

case
of
any
Base
Rate
Advance
and
three
Business
Days'
written
notice
in
the
case
of
any
SOFR
Rate
Advance,
in
each
case
substantially
in
the
form
of
Exhibit H
to
the
Administrative
Agent
stating
the
proposed
date
and
aggregate
principal
amount
of
the
prepayment,
and
if
such
notice
is
given,

Borrower
shall,
prepay
the
outstanding
aggregate
principal
amount
of
the
Advances
composing
part
of
the
same
Borrowing,
in
whole
or
ratably
in
part,
together
with
(A)
accrued
and
unpaid
interest
to
the
date
of
such
prepayment
on
the
aggregate
principal
amount
prepaid
and
(B)
the
Prepayment
Premium
(if
any)
calculated

in
accordance
with
Section
2.04(a).
(ii);
provided
that
(1) each
partial
prepayment
shall
be
in
an
aggregate
principal
amount
of
\$1,000,000
or
an
integral
multiple
of
\$500,000
in
excess
thereof,
(2) if
any
prepayment
of
a
SOFR
Rate
Advance
is
made
on
a
date
other
than
the
last
day
of
an
Interest

Period
for
such
Advance,
Borrower
shall
also
pay
any
amounts
owing
pursuant
to
Section
9.02(g)
and
(3)
any
such
notice
of
Borrower
may
state
that
such
notice
is
conditioned
upon
the
consummation
of
an
acquisition
or
sale
transaction
or
upon
the
effectiveness
of
other
credit
facilities
or
the
receipt
of

proceeds
from
the
issuance
of
other

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-

Debt
or
any
other
specified
event,
in
which
case,
subject
to
payment
by
Borrower
of
any
amounts
owing
pursuant
to
Section
9.02(g),
such
notice
may
be
revoked
by
Borrower
(by
notice
to
the
Administrative
Agent

on
or
prior
to
the
specified
effective
date)
if
such
condition
is
not
satisfied.

(ii) If

(A) Borrower
makes
a
voluntary
prepayment
of
all
or
any
portion
of
the
Facility
pursuant
to
Section
2.04(a).

(i).
(B)
any
acceleration
of
the
Advances
occurs
as
a
result
of
an
Event
of
Default
("Acceleration

Event”),
or
(C) makes
a
mandatory
prepayment
of
all
or
any
portion
of
the
Facility
pursuant
to
any
of
Section
2.04(b)
(iv),
(v),
or
(vi).
Borrower
shall
pay
to
the
Administrative
Agent,
for
the
ratable
account
of
the
Lenders,
a
prepayment
premium
in
an
amount
equal
to:

(X)in

the
case

of
any
prepayment
or
acceleration
during
the
period
commencing
from
and
after
the
Funding
Date
to
the
date
that
is
on
or
prior
to
the
third
anniversary
of
the
Funding
Date,
the
Make-
Whole
Amount;
provided,
that
in
the
case
of
any
prepayment
made
pursuant
to
Section
2.04(b).
(v).
during

such
period,
a
premium
of
5.00%
shall
apply
in
lieu
of
the
Make-
Whole
Amount;

(Y)in
the
case
of
any
prepayment
or
acceleration
during
the
period
commencing
after
the
third
anniversary
of
the
Funding
Date
to
the
date
that
is
on
or
prior
to
the
fourth
anniversary
of
the

Funding
Date,
a
premium
of
1.00%
of
the
aggregate
principal
amount
so
prepaid
or
accelerated;
and

(Z)in
the
case
of
any
prepayment
made
pursuant
to
Section
2.04(b).
(V).
during
the
period
commencing
after
the
fourth
anniversary
of
the
Funding
Date,
a
premium
of
1.00%.

(each
such
premium
hereinafter
referred

to
as
the
applicable
"Prepayment
Premium").

(iii) The

parties
hereto
expressly
agree
that
(A)
the
Prepayment
Premium
and
other
fees
referenced
herein
are
intended
to
be
liquidated
damages
(and
not
unmatured
interest),
are
reasonable
under
the
circumstances,
and
are
the
product
of
an
arm's
length
transaction
between
sophisticated
business
people

ably
represented
by
counsel,
(B)
all
such
fees
shall
be
payable
notwithstanding
the
then
prevailing
market
rates
at
the
time
payment
is
made,
(C)
there
has
been
a
course
of
conduct
between
the
Agents
and
the
Lenders
and
Borrower
giving
specific
consideration
in
this
transaction
for
such
agreement
to
pay

the
Prepayment
Premium
and
all
such
other
fees
referenced
in
this
Agreement,
and
(D)
Borrower
shall
be
estopped
hereafter
from
claiming
differently
than
as
agreed
to
in
this
Section
2.04(a)
(iii).
Borrower
expressly
acknowledges
that
its
agreement
to
pay
the
Prepayment
Premium
and
other
fees
referenced
herein
to
the
Lenders

as
herein
described
is
a
material
inducement
for
the
Lenders
to
make
the
Advances
in
exchange
for
the
consideration
therefor.
Notwithstanding
any
other
provision
of
this
Agreement,
the
Prepayment
Premium
shall
become
immediately
and
automatically
due
and
payable
upon
the
occurrence
of
a
Acceleration
Event
and
shall
be
calculated
as

of
the
date
of
the
Acceleration
Event,
regardless
of
the
date
on
which
payment
is
actually
made.

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(iv) Each
voluntary
prepayment
of
the
Advances
shall
be
applied
to
principal
installments
on
the
Advances
on
a
pro
rata
basis.
Any
prepayment
thereof

shall
be
applied
first
to
any
Base
Rate
Advance
to
the
fullest
extent
thereof
before
any
application
to
any
SOFR
Rate
Advance,
in
each
case
in
a
manner
which
minimizes
the
amount
of
any
payments
to
be
made
by
Borrower
pursuant
to
Section
9.02(g).

(v) Notice

required
to
be
given

under
this
Section
2.04(a),
must
be
given
in
writing,
including
by
telecopier
or
electronic
communication,
to
the
Administrative
Agent
by 12:00
noon
(New
York
City
time)
on
the
date
required
(and
the
Administrative
Agent
will
promptly
transmit
such
notice
by
telecopier
or
electronic
communication
to
each
Lender).

(b)

Mandatory.

(i)Borrower

shall
within
thirty
(30)
days
after
the
last
day
of
each
Fiscal
Quarter
prepay
the
Advances
outstanding
on
such
day
in
an
aggregate
amount
equal
to
such
amount
of
Excess
Cash
Flow
required
to
cause
the
aggregate
principal
amount
of
the
Advances
outstanding
as
of
such
Quarterly
Payment
Date

not
to
exceed
the
Target
Debt
Balance
Amount
as
of
such
date.

(ii)

(A) If

within
thirty
days
of
the
date
of
receipt
by
Borrower
of
any
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
that,
in
each
case,
is
in
excess
of
the
greater
of

(x)
\$15,000,000
or
(y)
five
percent
(5%)
of
trailing
twelve
month
EBITDA,
either
individually
or
in
aggregate,
and
in
respect
of
which
Borrower
shall
not
have
delivered
a
Reinvestment
Notice,
then
Borrower
shall
(in
each
case
without
duplication
and
as
contemplated
by
the
priorities
set
forth
in
clause (b).
(x).
below)

prepay
an
aggregate
principal
amount
of
the
Advances
in
an
aggregate
amount
equal
to
the
amount
of
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds.

(B) If
Borrower
shall
have
delivered
a
Reinvestment
Notice
in
respect
of
any
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain

Proceeds
or
Contract
Termination
Proceeds
and
such
Reinvestment
Notice
does
not
apply
to
all
of
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
received
by
Borrower,
then
on
the
third
Business
Day
following
the
delivery
of
such
Reinvestment
Notice,
Borrower
shall
(in
each
case
without

duplication
and
as
contemplated
by
the
priorities
set
forth
in
clause (b).
(x).
below)
prepay
an
aggregate
principal
amount
of
the
Advances
in
an
aggregate
amount
equal
to
the
amount
of
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
which
is
not
covered
by
such

Reinvestment
Notice.

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(C) If
Borrower
shall
have
delivered
a
Reinvestment
Notice
in
respect
of
any
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
described
in
sub-
clauses (A).
and
(B).
above,
(1) Borrower
shall
be
permitted
to
use
such

Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
to
make
such
Permitted
Investment
to
the
extent
that
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
are
applied
or
committed
to
be
applied
by
Borrower
to
such
Permitted
Investment
within 3 months
of
such

Asset
Sale,
Casualty
Event
or
Event
of
Eminent
Domain
or
corresponding
contract
termination
(and,
if
committed
to
be
applied,
shall
be
so
applied
within 180 days
of
such
commitment),
and
(2) to
the
extent
that
the
conditions
set
forth
in
sub-
clause (1).
above
are
not
satisfied,
Borrower
shall
(in
each
case
without
duplication

and
as
contemplated
by
the
priorities
set
forth
in
clause (b).
(X).
below),
in
the
case
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
are
received
by
Borrower,
within
three
Business
Days
of
the
failure
to
satisfy
such
conditions
prepay
an
aggregate
principal
amount
of
the

Advances
in
an
aggregate
amount
equal
to
the
remaining
amount
(if
any)
of
such
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
or
Contract
Termination
Proceeds
not
otherwise
applied
pursuant
to
sub-
clause (1).
above.
(iii) Borrower

shall
apply
to
the
prepayment
of
the
Advances
in
the
amounts
and
circumstances
set

forth

in

Section

6.02(g).

(i).

(4).

(iv) Upon

prepayment,

redemption,

offer

to

purchase,

mandatory

tender

or

another

analogous

event

with

respect

to

the

Muni

Bond

Financing,

Borrower

shall

apply

a

ratable

portion

of

such

prepayment,

redemption

or

purchase

to

the

prepayment

of

the

Advances.

(v) Upon

the

occurrence

of

a

Change

of
Control,
Borrower
shall
immediately
pay
to
Lenders
an
amount
equal
to
the
sum
of
(1)
all
outstanding
principal,
due
in
connection
with
the
Advances,
plus
accrued
and
unpaid
interest
thereon,
and
(2)
all
other
sums,
if
any,
that
shall
have
become
due
and
payable
hereunder
in
connection
with

the
Advances.

(vi)Borrower

shall,
within
five
Business
Days
of
the
receipt
of:
(1)
any
Debt
Proceeds
by
Borrower,
prepay
an
aggregate
principal
amount
of
the
Advances
in
an
amount
equal
to
such
Debt
Proceeds,
and
(2)
any
Additional
Permitted
Debt
Proceeds,
prepay
an
aggregate
principal
amount
of
the
Advances

in
an
amount
equal
to
twenty
per
cent
(20%)
of
such
Additional
Permitted
Debt
Proceeds.

(vii) Borrower

shall
within
five
Business
Days
of
the
receipt
of
any
performance
liquidated
damages
under
any
Material
Contract,
prepay
an
aggregate
principal
amount
of
the
Advances
in
an
amount
equal
to
such
performance

liquidated
damages.

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(viii) Borrower

shall
within
five
Business
Days
of
Holdings
becoming
a
publicly
traded
company
pursuant
to
an
initial
public
offering,
prepay
the
Advances
outstanding
on
such
day
in
an
aggregate
amount
not
to
exceed
the
outstanding
amount
of
Advances

of
up
to
twenty
percent
(20%)
of
the
aggregate
net
cash
proceeds
received
by
Holdings
or
the
Sponsor.

(ix) Concurrently

with
each
prepayment
made
pursuant
to
clauses (b).
(i).
through
(viii).
Borrower
shall
deliver
to
the
Administrative
Agent
a
certificate
of
a
Responsible
Officer
demonstrating
the
calculation
of
the
relevant
amount.

In
the
event
that
Borrower
shall
subsequently
determine
that
the
actual
amount
received
exceeded
the
amount
set
forth
in
such
certificate,
Borrower
shall
promptly
make
an
additional
prepayment
of
the
Advances
and
Borrower
shall
concurrently
therewith
deliver
to
the
Administrative
Agent
in
the
amount
of
such
excess
a
certificate
of

a
Responsible
Officer
demonstrating
the
derivation
of
such
excess.

(x)Each

prepayment
made
pursuant
to
Section
2.04(b).
(i).
through
(viii).
shall
be
applied
to
prepay
the
Advances
in
inverse
order
of
maturity
(including
in
respect
of
amounts
due
on
the
Maturity
Date)
until
the
outstanding
Advances
are
paid
in
full.

(xi) All
prepayments
under
this
Section
2.04(b)
shall
be
made
together
with
(A) accrued
and
unpaid
interest
to
the
date
of
such
prepayment
on
the
principal
amount
prepaid,
(B) any
amounts
owing
pursuant
to
Section
9.02(g)
and
Section
2.04(a)
(ii).
and
(C)
any
amounts
due
and
payable
in
respect
of
any
Interest
Rate

Hedge
Agreements
terminated
in
connection
with
such
prepayment
and,
in
each
case,
the
amount
of
principal
prepaid
shall
be
correspondingly
reduced
by
the
amounts
required
to
be
paid
pursuant
to
this
clause (xi)
(without
limitation
of
the
order
of
priority
set
forth
in
any
other
Loan
Document).

(xii) Notwithstanding

the
foregoing

in
this
Section
2.04(b),
any
Lender,
at
its
option,
may
elect
to
decline
any
prepayment
of
Advances
of
such
Lender
required
under
this
Section
2.04(b),
by
giving
written
notice
thereof
to
the
Administrative
Agent
by
5:00
p.m.
(New
York
City
time)
at
least
two
Business
Days
prior
to
the
date

of
such
prepayment
(any
such
Lender,
a
"Declining
Lender")
and
on
the
date
of
such
prepayment,
any
amounts
that
would
otherwise
have
been
applied
to
prepay
Advances
owing
to
Declining
Lenders
(such
amounts,
"Declined
Proceeds")
shall
instead
be
retained
by
Borrower
for
application
for
any
purpose
not
prohibited
by
this

Agreement
(such
amounts,
the
“Retained
Declined
Proceeds”).
For
the
avoidance
of
doubt,
the
aggregate
amount
of
Retained
Declined
Proceeds
may
be
added
(without
duplication)
to
any
dollar
basket
for
any
purpose
(but
not
with
respect
to
any
Event
of
Default)
not
prohibited
under
this
Agreement.

SECTION

2.05 Scheduled
Interest

(a)

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

(i) if

a
Base
Rate
Advance,
at
the
lesser
of:

(A)
Interest
Rate
Cap,
and
(B)
Base
Rate
plus
the
Applicable
Margin;
or

(ii) if

a
SOFR
Rate
Advance,
at
the
lesser
of:
(A)
Interest
Rate
Cap,
and
(B)
Term
SOFR
plus
the
Applicable
Margin.

(b)

The
basis
for
determining
the
rate
of
interest
with
respect
to
the
Advances,
and

the
Interest
Period
with
respect
to
any
SOFR
Rate
Advance,
shall
be
selected
by
Borrower
and
notified
to
the
Administrative
Agent
and
the
Lenders
pursuant
to
the
applicable
Funding
Notice
or
Conversion/Continuation
Notice,
as
the
case
may
be.
If
on
any
day
an
Advance
is
outstanding
with
respect
to
which

a
Funding
Notice
or
Conversion/Continuation
Notice
has
not
been
delivered
to
the
Administrative
Agent
in
accordance
with
the
terms
hereof
specifying
the
applicable
basis
for
determining
the
rate
of
interest,
then
for
that
day
such
Advance
shall
be
a
Base
Rate
Advance.

(c)

In
connection
with
a
SOFR
Rate

Advance
there
shall
be
no
more
than
eight
Interest
Periods
outstanding
at
any
time.
In
the
event
Borrower
fails
to
specify
between
a
Base
Rate
Advance
or
a
SOFR
Rate
Advance
in
the
applicable
Funding
Notice
or
Conversion/Continuation
Notice,
such
Advance
(if
outstanding
as
a
SOFR
Rate
Advance)
will
be

automatically
Converted
into
a
Base
Rate
Advance
on
the
last
day
of
the
then-
current
Interest
Period
for
the
Advance
(or
if
outstanding
as
a
Base
Rate
Advance
will
remain
as,
or
(if
not
then
outstanding)
will
be
made
as,
a
Base
Rate
Advance).
In
the
event
Borrower
fails
to

specify
an
Interest
Period
for
any
SOFR
Rate
Advance
in
the
applicable
Funding
Notice
or
Conversion/Continuation
Notice,
Borrower
shall
be
deemed
to
have
selected
an
Interest
Period
of
one
month.
As
soon
as
practicable
on
each
Periodic
Term
SOFR
Determination
Day,
the
Administrative
Agent
shall
determine
(which
determination
shall,
absent

manifest
error,
be
final,
conclusive
and
binding
upon
all
parties)
the
interest
rate
that
shall
apply
to
the
SOFR
Rate
Advance
for
which
an
interest
rate
is
then
being
determined
for
the
applicable
Interest
Period
and
shall
promptly
give
notice
thereof
(in
writing)
to
Borrower
and
each
Lender.

(d)

Except
as
otherwise
set
forth
herein,
interest
on
the
Advances
(i) shall
accrue
on
a
daily
basis
and
shall
be
payable
in
arrears
on
each
Interest
Payment
Date
with
respect
to
interest
accrued
on
and
to
each
such
payment
date;
(ii) shall
accrue
on
a
daily
basis
and
shall
be
payable

in
arrears
upon
any
prepayment
of
the
Advances,
whether
voluntary
or
mandatory,
to
the
extent
accrued
on
the
amount
being
prepaid
and
(iii) shall
accrue
on
a
daily
basis
and
shall
be
payable
in
arrears
at
maturity
of
the
Advances,
including
final
maturity
of
the
Advances.

SECTION

2.06 Conversion/Continuation of

the
Advances.

(a)

Optional.
Borrower
may
on
any
Business
Day,
upon
provision
of
an
irrevocable
Conversion/Continuation
Notice
by
Borrower
to
the
Administrative
Agent
not
later
than 12:00
noon
(New
York
City
time)
on
(x) in
the
case
of
a
Conversion
to
a
Base
Rate
Advance,
the
Business
Day
prior
to
the

date
of
the
proposed
Conversion
and
(y) in
the
case
of
a
Conversion

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to,
or
a
continuation
of,
a
SOFR
Rate
Advance,
the
third
U.S.
Government
Securities
Business
Day
prior
to
the
date
of
the
proposed
Conversion
or
continuation,
and
subject
to

the
provisions
of
Section
3.03.
Convert
all
or
any
portion
of
an
Advance
of
one
Type
composing
the
same
Borrowing
into
the
other
Type,
or,
upon
the
expiration
of
any
Interest
Period
applicable
to
any
SOFR
Rate
Advance,
to
continue
all
or
a
portion
of
that
amount
as
a
SOFR

Rate
Advance;
provided
that
(i) any
Conversion
of
a
SOFR
Rate
Advance
into
Base
Rate
Advance
shall
be
made
only
on
the
last
day
of
an
Interest
Period
for
such
SOFR
Rate
Advance
unless
Borrower
shall
pay
all
amounts
due
under
Section
9.02(g).
in
connection
with
any
such
Conversion,
(ii) any
Conversion

of
a
Base
Rate
Advance
into
a
SOFR
Rate
Advance
shall
be
in
an
amount
not
less
than
\$1,000,000
and
integral
multiples
of
\$500,000
in
excess
of
that
amount,
(iii) each
Conversion
or
continuation
of
the
Advances
comprising
part
of
the
same
Borrowing
under
the
Facility
shall
be
made
ratably
among

the
Lenders
in
accordance
with
their
Commitments
or
the
Advances
under
the
Facility
and
(iv) in
the
case
of
a
Conversion
of
a
Base
Rate
Advance
into
a
SOFR
Rate
Advance
or
continuation
of
a
SOFR
Rate
Advance,
no
Event
of
Default
shall
have
occurred
and
be
continuing.
Each
Conversion/Continuation
Notice

shall
be
irrevocable
and
binding
on
Borrower.

(b)

Mandatory.

(i) On

the
date
on
which
the
aggregate
unpaid
principal
amount
of
a
SOFR
Rate
Advance
comprising
any
Borrowing
shall
be
reduced,
by
payment
or
prepayment
or
otherwise,
to
less
than
\$1,000,000,
the
applicable
Advance
shall
automatically
Convert
into
a
Base

Rate
Advance.

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

Advance
into,
a
SOFR
Rate
Advance
shall
be
suspended.

SECTION

2.07 Promissory

Notes.

(a)

Each
Lender
shall
maintain
in
accordance
with
its
usual
practice
an
account
or
accounts
evidencing
the
indebtedness
of
Borrower
to
such
Lender
resulting
from
the
Advances
owing
to
such
Lender
from
time
to
time,
including
the

amounts
of
principal
and
interest
payable
and
paid
to
such
Lender
from
time
to
time
hereunder.
Borrower
agrees
that
upon
notice
by
any
Lender
to
Borrower
(with
a
copy
of
such
notice
to
the
Administrative
Agent)
to
the
effect
that
a
promissory
note
or
other
evidence
of
indebtedness
is
required

or
appropriate
in
order
for
such
Lender
to
evidence
(whether
for
purposes
of
pledge,
enforcement
or
otherwise)
the
Advances
owing
to,
or
to
be
made
by,
such
Lender,
Borrower
shall
promptly
execute
and
deliver
to
such
Lender,
with
a
copy
to
the
Administrative
Agent,
a
Note
payable
to
such
Lender

in
a
principal
amount
equal
to
the
Advances
of
such
Lender.
All
references
to
Notes
in
the
Loan
Documents
shall
mean
Notes,
if
any,
to
the
extent
issued
hereunder.

(b)

The
Register
maintained
by
the
Administrative
Agent
pursuant
to
Section
9.05(c).
shall
include
a
control
account,
and
a
subsidiary

account
for
each
Lender,
in
which
accounts
(taken
together)
shall
be
recorded
(i) the
date
and
amount
of
each
Borrowing
made
hereunder,
the
Type
of
Advance
comprising
such
Borrowing
and,
if
appropriate,
the
Interest
Period

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applicable
thereto,
(ii) the
terms
of
each
Assignment

and
Assumption
delivered
to
and
accepted
by
it,
(iii) the
amount
of
any
principal
or
interest
due
and
payable
or
to
become
due
and
payable
from
Borrower
to
each
Lender
hereunder
and
(iv) the
amount
of
any
sum
received
by
the
Administrative
Agent
from
Borrower
hereunder
and
each
Lender's
share
thereof.
Borrower

and
each
Lender
intend
that
any
obligation
under
the
Note
be
in
registered
form
as
defined
in
Treas.
Reg.
Sections
5(f).103-
1(c)
and
1.871-
14(c).

(c)

Entries
made
in
good
faith
by
the
Administrative
Agent
in
the
Register
pursuant
to
clause (b).
above
shall
be
conclusive
evidence
of
the
amount

of
principal
and
interest
due
and
payable
or
to
become
due
and
payable
from
Borrower,
under
this
Agreement,
absent
manifest
error;
provided
that
the
failure
of
the
Administrative
Agent
to
make
an
entry,
or
any
finding
that
an
entry
is
incorrect,
which,
in
either
case,
shall
be
promptly
corrected,
in

the
Register
shall
not
limit
or
otherwise
affect
the
obligations
of
Borrower
under
this
Agreement.

SECTION

2.08 Benchmark
Replacement
Setting.

(a)

Notwithstanding
anything
to
the
contrary
herein
or
in
any
other
Loan
Document,
upon
the
occurrence
of
a
Benchmark
Transition
Event,
the
Administrative
Agent
(acting
on
instructions
from
the
Required

Lenders)
and
Borrower
may
amend
this
Agreement
to
replace
the
then-
current
Benchmark
with
a
Benchmark
Replacement.
Any
such
amendment
with
respect
to
a
Benchmark
Transition
Event
will
become
effective
at
5:00
p.m.
(New
York
City
time)
on
the
fifth
(5th)
Business
Day
after
the
Administrative
Agent
has
posted
such

proposed
amendment
to
all
affected
Lenders
and
Borrower
so
long
as
the
Administrative
Agent
has
not
received,
by
such
time,
written
notice
of
objection
to
such
amendment
from
Lenders
comprising
the
Required
Lenders.
No
replacement
of
a
Benchmark
with
a
Benchmark
Replacement
pursuant
to
this
Section
2.08(a)
will
occur
prior

to
the
applicable
Benchmark
Transition
Start
Date.

(b)

In
connection
with
the
use,
administration,
adoption
or
implementation
of
a
Benchmark
Replacement,
the
Administrative
Agent
will
have
the
right
to
make
Conforming
Changes
from
time
to
time
and,
notwithstanding
anything
to
the
contrary
herein
or
in
any
other
Loan
Document,

any
amendments
implementing
such
Conforming
Changes
will
become
effective
without
any
further
action
or
consent
of
any
other
party
to
this
Agreement
or
any
other
Loan
Document.

(c)

The
Administrative
Agent
will
promptly
notify
Borrower
and
the
Lenders
of
(i)
the
implementation
of
any
Benchmark
Replacement
and
(ii)
the

effectiveness
of
any
Conforming
Changes
in
connection
with
the
use,
administration,
adoption
or
implementation
of
a
Benchmark
Replacement.
The
Administrative
Agent
will
notify
Borrower
of
(x)
the
removal
or
reinstatement
of
any
tenor
of
a
Benchmark
pursuant
to
Section
2.08(d)
and
(y)
the
commencement
of
any
Benchmark
Unavailability
Period.
Any

determination,
decision
or
election
that
may
be
made
by
the
Administrative
Agent
or,
if
applicable,
any
Lender
(or
group
of
Lenders)
pursuant
to
this
Section
2.08,
including
any
determination
with
respect
to
a
tenor,
rate
or
adjustment
or
of
the
occurrence
or
non-
occurrence
of
an
event,
circumstance
or
date

and
any
decision
to
take
or
refrain
from
taking
any
action
or
any
selection,
will
be
conclusive
and
binding
absent
manifest
error
and
may
be
made
in
its
or
their
sole
discretion
and
without
consent
from
any
other
party
to
this
Agreement
or
any
other
Loan
Document,
except,
in
each

case,
as
expressly
required
pursuant
to
this
Section
2.08.

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(d)
Notwithstanding
anything
to
the
contrary
herein
or
in
any
other
Loan
Document,
at
any
time
(including
in
connection
with
the
implementation
of
a
Benchmark
Replacement),
(i)
if
the
then-
current

Benchmark
is
a
term
rate
(including
the
Term
SOFR
Reference
Rate)
and
either
(A)
any
tenor
for
such
Benchmark
is
not
displayed
on
a
screen
or
other
information
service
that
publishes
such
rate
from
time
to
time
as
selected
by
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)

or
(B)
the
regulatory
supervisor
for
the
administrator
of
such
Benchmark
has
provided
a
public
statement
or
publication
of
information
announcing
that
any
tenor
for
such
Benchmark
is
not
or
will
not
be
representative,
then
the
Administrative
Agent
may
modify
the
definition
of
"Interest
Period"
(or
any
similar
or
analogous

definition)
for
any
Benchmark
settings
at
or
after
such
time
to
remove
such
unavailable
or
non-
representative
tenor
and
(ii)
if
a
tenor
that
was
removed
pursuant
to
clause (i)
above
either
(A)
is
subsequently
displayed
on
a
screen
or
information
service
for
a
Benchmark
(including
a
Benchmark
Replacement)
or
(B)

is
not,
or
is
no
longer,
subject
to
an
announcement
that
it
is
not
or
will
not
be
representative
for
a
Benchmark
(including
a
Benchmark
Replacement),
then
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
may
modify
the
definition
of
"Interest
Period"
(or
any
similar
or
analogous
definition)

for
all
Benchmark
settings
at
or
after
such
time
to
reinstate
such
previously
removed
tenor.

(e)

Upon
Borrower's
receipt
of
notice
of
the
commencement
of
a
Benchmark
Unavailability
Period,
Borrower
may
revoke
any
pending
request
for
a
SOFR
Borrowing
of,
Conversion
to
or
continuation
of
SOFR
Rate
Advances
to

be
made,
Converted
or
continued
during
any
Benchmark
Unavailability
Period
and,
failing
that,
Borrower
will
be
deemed
to
have
Converted
any
such
request
into
a
request
for
a
Borrowing
of
or
Conversion
to
Base
Rate
Advances.
During
a
Benchmark
Unavailability
Period
or
at
any
time
that
a
tenor
for
the

then-
current
Benchmark
is
not
an
Available
Tenor,
the
component
of
Base
Rate
based
upon
the
then-
current
Benchmark
or
such
tenor
for
such
Benchmark,
as
applicable,
will
not
be
used
in
any
determination
of
Base
Rate.

ARTICLE
III
OTHER
PROVISIONS
RELATING
TO
THE
FACILITIES

SECTION

3.01 Default
Interest.
Upon

the
occurrence
and
during
the
continuance
of
an
Event
of
Default
under
Section
7.01(a),
Borrower
shall
pay
interest
on
overdue
amounts
(a)
payable
on
demand
at
a
rate
that
is 2%
per
annum
in
excess
of
the
interest
rate
otherwise
payable
under
this
Agreement
with
respect
to
the
Advances;
provided
that

in
the
case
of
a
SOFR
Rate
Advance,
upon
the
expiration
of
the
Interest
Period
in
effect
at
the
time
any
such
increase
in
interest
rate
is
effective
the
SOFR
Rate
Advance
shall
thereupon
become
a
Base
Rate
Advance
and
shall
thereafter
bear
interest
payable
upon
demand
at
a
rate

which
is 2%
per
annum
above
the
interest
rate
otherwise
payable
hereunder
for
a
Base
Rate
Advance
and
(b) to
the
fullest
extent
permitted
by
applicable
law,
the
amount
of
any
overdue
interest,
fee
or
other
overdue
amount
payable
under
this
Agreement
or
any
other
Loan
Document
to
any
Agent
or
any

Lender
that
is
not
paid
when
due,
from
the
date
such
amount
shall
be
due
until
such
amount
shall
be
paid
in
full,
payable
in
arrears
on
the
date
such
amount
shall
be
paid
in
full
and
on
demand,
at
a
rate
per
annum
equal
at
all
times
to 2%
per

annum
above
the
rate
per
annum
required
to
be
paid
on
the
Base
Rate
Advance.
Payment
or
acceptance
of
the
increased
rates
of
interest
provided
for
in
this
Section
3.01
is
not
a
permitted
alternative
to
timely
payment
and
shall
not
constitute
a
waiver
of

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-
any
Event
of
Default
or
otherwise
prejudice
or
limit
any
rights
or
remedies
of
Administrative
Agent
or
any
Lender.

SECTION

3.02 Fees.
Borrower
shall
pay
to
each
Agent
for
its
own
account
such
fees
as
may
from
time
to
time
be
separately
agreed
between
Borrower
and
such

Agent,
including
pursuant
to
the
Fee
Letters.

SECTION

3.03 Change
of
Circumstances.

(a)

Inability
to
Determine
Rates.
Subject
to
Section
2.08.
if,
on
or
before
the
first
day
of
any
Interest
Period
for
any
Advance,
(1) Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
determines
(which
determination
shall
be
conclusive

and
binding
absent
manifest
error)
that
the
Term
SOFR
for
such
Interest
Period
cannot
be
determined
pursuant
to
the
definition
thereof,
or
(2) the
Required
Lenders
determine
that
for
any
reason
in
connection
with
any
request
for
a
SOFR
Rate
Advance
or
a
Conversion
thereto
or
a
continuation
thereof
that
Term

SOFR
for
any
requested
Interest
Period
with
respect
to
a
proposed
SOFR
Rate
Advance
does
not
adequately
and
fairly
reflect
the
cost
to
such
Lenders
of
making
and
maintaining
such
Loan,
and
the
Required
Lenders
have
provided
notice
of
such
determination
to
the
Administrative
Agent,
then
Administrative
Agent
shall
give

notice
of
such
condition
to
Borrower
as
promptly
as
practicable
thereafter.
Upon
notice
thereof
by
the
Administrative
Agent
to
Borrower,
any
obligation
of
the
Lenders
to
make
SOFR
Rate
Advances,
and
any
right
of
Borrower
to
continue
SOFR
Rate
Advances
or
to
Convert
Base
Rate
Advances
to
SOFR
Rate
Advances,

shall
be
suspended
(to
the
extent
of
the
affected
SOFR
Rate
Advances
or
affected
Interest
Periods)
until
the
Administrative
Agent
(with
respect
to
clause (b),
at
the
instruction
of
the
Required
Lenders)
revokes
such
notice.
Upon
receipt
of
such
notice,
(i)
Borrower
may
revoke
any
pending
request
for
a
borrowing
of,

Conversion
to
or
continuation
of
SOFR
Rate
Advances
(to
the
extent
of
the
affected
SOFR
Rate
Advances
or
affected
Interest
Periods)
or,
failing
that,
Borrower
will
be
deemed
to
have
Converted
any
such
request
into
a
request
for
a
Borrowing
of
or
Conversion
to
Base
Rate
Advances
in
the
amount

specified
therein
and
(ii)
any
outstanding
affected
SOFR
Rate
Advances
will
be
deemed
to
have
been
Converted
into
Base
Rate
Advances
at
the
end
of
the
applicable
Interest
Period.
Upon
any
such
Conversion,
Borrower
shall
also
pay
accrued
interest
on
the
amount
so
Converted,
together
with
any
additional
amounts
required

pursuant
to
Section
9.02(g).
Subject
to
Section
2.08,
if
the
Administrative
Agent
determines
(which
determination
shall
be
conclusive
and
binding
absent
manifest
error)
that
"Term
SOFR"
cannot
be
determined
pursuant
to
the
definition
thereof
on
any
given
day,
the
interest
rate
on
Base
Rate
Advances
shall
be
determined
by
the

Administrative
Agent
without
reference
to
clause (c)
of
the
definition
of
“Base
Rate”
until
the
Administrative
Agent
revokes
such
determination.

(b)

Illegality.
Notwithstanding
any
other
provision
of
this
Agreement,
if
any
Change
in
Law
after
the
Closing
Date
shall
make
it
unlawful,
or
any
central
bank
or
other
Governmental
Authority

shall
assert
that
it
is
unlawful,
for
any
Lender
or
its
International
Lending
Office
to
make,
maintain
or
fund
Advances
whose
interest
is
determined
by
reference
to
SOFR,
the
Term
SOFR
Reference
Rate
or
Term
SOFR,
or
to
determine
or
charge
interest
based
upon
SOFR,
the
Term
SOFR
Reference
Rate

or
Term
SOFR,
then,
on
notice
thereof
and
demand
therefor
by
such
Lender
to
Borrower
through
the
Administrative
Agent
(an
"Illegality
Notice"),
(a)
any
obligation
of
the
Lenders
to
make
SOFR
Rate
Advances,
and
any
right
of
Borrower
to
continue
SOFR
Rate
Advances
or
to
Convert
Base
Rate
Advances
to

SOFR
Rate
Advances,
shall

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■

be
suspended,
and
(b)
the
interest
rate
on
which
Base
Rate
Advances
shall,
if
necessary
to
avoid
such
illegality,
be
determined
by
the
Administrative
Agent
without
reference
to
clause (c)
of
the
definition
of
"Base
Rate",
in
each

case
until
each
affected
Lender
notifies
the
Administrative
Agent
and
Borrower
that
the
circumstances
giving
rise
to
such
determination
no
longer
exist.
Upon
receipt
of
an
Illegality
Notice,
Borrower
shall,
if
necessary
to
avoid
such
illegality,
upon
demand
from
any
Lender
(with
a
copy
to
the
Administrative
Agent),
prepay
or,

if
applicable,
Convert
all
SOFR
Rate
Advances
to
Base
Rate
Advances
(the
interest
rate
on
which
Base
Rate
Advances
shall,
if
necessary
to
avoid
such
illegality,
be
determined
by
the
Administrative
Agent
without
reference
to
clause (c)
of
the
definition
of
"Base
Rate"),
on
the
last
day
of
the
Interest
Period

therefor,
if
all
affected
Lenders
may
lawfully
continue
to
maintain
such
SOFR
Rate
Advances
to
such
day,
or
immediately,
if
any
Lender
may
not
lawfully
continue
to
maintain
such
SOFR
Rate
Advances
to
such
day,
in
each
case
until
the
Administrative
Agent
is
advised
in
writing
by
each
affected
Lender

that
it
is
no
longer
illegal
for
such
Lender
to
determine
or
charge
interest
rates
based
upon
SOFR,
the
Term
SOFR
Reference
Rate
or
Term
SOFR.
Upon
any
such
prepayment
or
Conversion,
Borrower
shall
also
pay
accrued
interest
on
the
amount
so
prepaid
or
Converted,
together
with
any
additional
amounts

required
pursuant
to
Section
9.02(g).

(c)

Increased
Costs
Generally.
If
any
Change
in
Law
shall:

(i) impose,
modify
or
deem
applicable
any
reserve
(including
pursuant
to
regulations
issued
from
time
to
time
by
the
Federal
Reserve
Board
for
determining
the
maximum
reserve
requirement
(including
any
emergency,
special,
supplemental
or
other

marginal
reserve
requirement)
with
respect
to
eurocurrency
funding
(currently
referred
to
as
"Eurocurrency
liabilities"
in
Regulation
D)),
special
deposit,
compulsory
loan,
insurance
charge
or
similar
requirement
against
assets
of,
deposits
with
or
for
the
account
of,
or
credit
extended
or
participated
in
by,
any
Lender;

(ii)subject
any
Recipient
to

any
Taxes
(other
than
(A) Indemnified
Taxes,
(B) Taxes
described
in
clauses (b).
through
(d) of
the
definition
of
"Excluded
Taxes"
and
(C) Other
Connection
Taxes)
on
its
Advances,
Advance
principal,
Commitments,
or
other
obligations
under
the
Loan
Documents,
or
its
deposits,
reserves,
other
liabilities
or
capital
attributable
thereto;
or

(iii) impose
on
any
Lender

any
other
condition,
cost
or
expense
(other
than
Taxes)
affecting
this
Agreement
or
the
Advances
made
by
such
Lender
or
participation
therein;

and
the
result
of
any
of
the
foregoing
shall
be
to
increase
the
cost
to
such
Lender
or
such
other
Recipient
of
making,
Converting
to,
continuing
or

*maintaining
the
Advances
or
of
maintaining
its
obligation
to
make
the
Advances,
or
to
reduce
the
amount
of
any
sum
received
or
receivable
by
such
Lender
or
other
Recipient
hereunder
(whether
of
principal,
interest
or
any
other
amount)
in
each
case
by
an
amount
which
such
Lender
or
other
Recipient*

deems
to
be
material,
then,
upon
request
of
such
Lender
or
other
Recipient,
Borrower
will
pay
to
such
Lender
or
other
Recipient,
as
the
case
may
be,
such
additional
amount
or
amounts
as
will
compensate
such
Lender
or
other
Recipient,
as
the
case
may
be,
for
such
additional
costs
incurred

or
reduction
suffered.

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(d)

Capital
Requirements.

If
any
Lender
determines
that
any
Change
in
Law
affecting
such
Lender
or
any
lending
office
of
such
Lender
or
such
Lender's
holding
company,
if
any,
regarding
capital
or
liquidity
requirements,
has
or
would

have
the
effect
of
reducing
the
rate
of
return
on
such
Lender's
capital
or
on
the
capital
of
such
Lender's
holding
company,
if
any,
as
a
consequence
of
this
Agreement,
the
Commitments
of
such
Lender
or
the
Advance
made
by
such
Lender
to
a
level
below
that
which
such
Lender

or
such
Lender's
or
holding
company
could
have
achieved
but
for
such
Change
in
Law
(taking
into
consideration
such
Lender's
policies
and
the
policies
of
such
Lender's
holding
company
with
respect
to
capital
adequacy
or
liquidity),
then
from
time
to
time,
Borrower
will
pay
to
such
Lender
such
additional
amount

or
amounts
as
will
compensate
such
Lender
or
such
Lender's
holding
company
for
any
such
reduction
suffered.

(e)

Certificates
for
Reimbursement.

A
certificate
of
a
Lender
setting
forth
the
amount
or
amounts
necessary
to
compensate
such
Lender
or
its
holding
company
as
specified
in
paragraph (c).
or
(d) of
this
Section

and
delivered
to
Borrower,
shall
be
conclusive
absent
manifest
error.
Borrower
shall
pay
such
Lender
the
amount
shown
as
due
on
any
such
certificate
within 10 days
after
receipt
thereof.

(f)

Delay
in
Requests.
Failure
or
delay
on
the
part
of
any
Lender
to
demand
compensation
pursuant
to
this
Section
3.03

shall
not
constitute
a
waiver
of
such
Lender's
right
to
demand
such
compensation;
provided
that
Borrower
shall
not
be
required
to
compensate
a
Lender
pursuant
to
this
Section
3.03
for
any
increased
costs
incurred
or
reductions
suffered
more
than
nine
months
prior
to
the
date
that
such
Lender
notifies
Borrower

of
the
Change
in
Law
giving
rise
to
such
increased
costs
or
reductions,
and
of
such
Lender's
intention
to
claim
compensation
therefor
(except
that,
if
the
Change
in
Law
giving
rise
to
such
increased
costs
or
reductions
is
retroactive,
then
the
nine
month
period
referred
to
above
shall
be
extended

to
include
the
period
of
retroactive
effect
thereof).

SECTION

3.04 Payments and Computations.

(a)

Borrower
shall
make
each
payment
hereunder
and
under
the
other
Loan
Documents,
irrespective
of
any
right
of
counterclaim
or
set-
off,
not
later
than 12:00
noon
(New
York
City
time)
on
the
day
when
due
in
Dollars

to
the
Administrative
Agent
at
the
Administrative
Agent's
Account
in
same
day
funds,
with
payments
being
received
by
the
Administrative
Agent
after
such
time
being
deemed
to
have
been
received
on
the
next
succeeding
Business
Day
unless
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
otherwise
elects.
The

Administrative
Agent
will
promptly
thereafter
cause
like
funds
to
be
distributed
(i) if
such
payment
by
Borrower
is
in
respect
of
principal,
interest,
commitment
fees
or
any
other
Obligation
then
payable
hereunder
and
under
the
other
Loan
Documents
to
more
than
one
Lender,
to
such
Lenders
for
the
account
of
their

respective
Applicable
Lending
Offices
ratably
in
accordance
with
the
amounts
of
such
respective
Obligations
then
payable
to
such
Lenders
and
(ii) if
such
payment
by
Borrower
is
in
respect
of
any
Obligation
then
payable
hereunder
to
one
Lender,
to
such
Lender
for
the
account
of
its
Applicable
Lending
Office,
in
each

case
to
be
applied
in
accordance
with
the
terms
of
this
Agreement.
Upon
its
acceptance
of
an
Assignment
and
Assumption
and
recording
of
the
information
contained
therein
in
the
Register
pursuant
to
Section
9.05(c),
from
and
after
the
effective
date
of
such
Assignment
and
Assumption,
the
Administrative
Agent
shall
make

all
payments
hereunder
and
under
the
other
Loan
Documents
in
respect
of
the
interest
assigned
thereby
to
the
assignee
thereunder,
and
the
parties
to
such
Assignment
and
Assumption
shall
make

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all
appropriate
adjustments
in
such
payments
for
periods
prior
to
such

effective
date
directly
between
themselves.

(b)

All
payments
in
respect
of
the
principal
amount
of
the
Advances
shall
be
accompanied
by
payment
of
accrued
interest
on
the
principal
amount
being
repaid
or
prepaid,
and
all
such
payments
(and,
in
any
event,
any
payments
in
respect
of
the
Advances
on

a
date
when
interest
is
due
and
payable
with
respect
to
the
Advances)
shall
be
applied
to
the
payment
of
interest
then
due
and
payable
before
application
to
principal.

(c)

All
computations
of
interest
for
any
Base
Rate
Advance
when
the
Base
Rate
is
determined
by
the
Prime
Rate

shall
be
made
on
the
basis
of
a
year
of 365
or 366 days,
as
the
case
may
be,
and
actual
days
elapsed.
All
other
computations
of
fees,
interest
and
commissions
shall
be
made
on
the
basis
of
a 360-
day
year
and
actual
days
elapsed
(including
the
first
day
but
excluding
the
last

day;
provided
that,
if
the
Advance
is
repaid
on
the
same
day
on
which
it
is
made,
one
day's
interest
shall
be
paid
on
the
Advance).
Each
determination
by
the
Administrative
Agent
of
an
interest
rate,
fee
or
commission
hereunder
shall
be
conclusive
and
binding
for
all
purposes,
absent

manifest
error.

(d)

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

in
the
computation
of
payment
of
interest;
provided
that,
if
such
extension
would
cause
payment
of
interest
on
or
principal
of
any
SOFR
Rate
Advance
to
be
made
in
the
next
following
calendar
month,
such
payment
shall
be
made
on
the
next
preceding
Business
Day.

(e)

Unless
the
Administrative

Agent
shall
have
received
notice
from
Borrower
prior
to
the
date
on
which
any
payment
is
due
to
any
Lender
hereunder
that
Borrower
will
not
make
such
payment
in
full,
the
Administrative
Agent
may
assume
that
Borrower
has
made
such
payment
in
full
to
the
Administrative
Agent
on
such
date

and
the
Administrative
Agent
may,
in
reliance
upon
such
assumption,
cause
to
be
distributed
to
each
such
Lender
on
such
due
date
an
amount
equal
to
the
amount
then
due
such
Lender.
If
and
to
the
extent
Borrower
shall
not
have
so
made
such
payment
in
full
to
the
Administrative

Agent,
each
such
Lender
shall
repay
to
the
Administrative
Agent
forthwith
on
demand
such
amount
distributed
to
such
Lender
together
with
interest
thereon,
for
each
day
from
the
date
such
amount
is
distributed
to
such
Lender
until
the
date
such
Lender
repays
such
amount
to
the
Administrative
Agent,
at
the

Federal
Funds
Effective
Rate.

(f)

If
the
Administrative
Agent
receives
funds
for
application
to
the
Obligations
of
Borrower
under
or
in
respect
of
the
Loan
Documents
under
circumstances
for
which
the
Loan
Documents
do
not
specify
the
Advance
to
which,
or
the
manner
in
which,
such
funds
are
to

be
applied,
the
Administrative
Agent
may,
but
shall
not
be
obligated
to,
elect
to
distribute
such
funds
to
each
of
the
Lenders
in
accordance
with
such
Lender's
Pro
Rata
Share
of
the
sum
of
the
aggregate
principal
amount
of
the
Advances
outstanding
at
such
time,
in
repayment
or
prepayment
of

such
outstanding
Advances
or
other
Obligations
then
owing
to
such
Lender
and
for
application
to
such
principal
repayment
installments
thereof
as
the
Administrative
Agent
shall
direct.

(g)

The
Administrative
Agent
shall
deem
any
payment
by
or
on
behalf
of
Borrower
under
this
Agreement
that
is
not
made
in
same

day
funds
prior
to 12:00
noon
(New
York

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■

City
time)
to
be
a
non-
conforming
payment.
Any
such
payment
shall
not
be
deemed
to
have
been
received
by
the
Administrative
Agent
until
the
later
of
(i) the
time
such
funds
become
available
funds

and
(ii) the
applicable
next
Business
Day.
The
Administrative
Agent
shall
give
prompt
telephonic
notice
to
Borrower
and
each
Lender
(confirmed
in
writing)
if
any
payment
is
non-
conforming.
Any
non-
conforming
payment
may
constitute
or
become
a
Default
or
Event
of
Default
in
accordance
with
the
terms
of
Section
7.01(a).

Interest
shall
continue
to
accrue
on
any
principal
as
to
which
a
non-
conforming
payment
is
made
until
such
funds
become
available
funds
(but
in
no
event
less
than
the
period
from
the
date
of
such
payment
to
the
next
succeeding
applicable
Business
Day)
at
the
rate
determined
pursuant
to

Section

3.01

from

the

date

such

amount

was

due

and

payable

until

the

date

such

amount

is

paid

in

full.

(h)

In

connection

with

the

use

or

administration

of

Term

SOFR,

the

Administrative

Agent

will

have

the

right

to

make

Conforming

Changes

from

time

to

time

and,

notwithstanding

anything

to
the
contrary
herein
or
in
any
other
Loan
Document,
any
amendments
implementing
such
Conforming
Changes
will
become
effective
without
any
further
action
or
consent
of
any
other
party
to
this
Agreement
or
any
other
Loan
Document.
The
Administrative
Agent
will
promptly
notify
Borrower
and
the
Lenders
of
the
effectiveness

of
any
Conforming
Changes
in
connection
with
the
use
or
administration
of
Term
SOFR.

SECTION

3.05 Taxes.

(a)

Payments
Free
of
Taxes.
Any
and
all
payments
by
or
on
account
of
any
obligation
of
Borrower
under
any
Loan
Document
shall
be
made
without
deduction
or
withholding
for
any
Taxes,
except

as
required
by
applicable
law.
If
any
applicable
law
(as
determined
in
the
good
faith
discretion
of
an
applicable
Withholding
Agent)
requires
the
deduction
or
withholding
of
any
Tax
from
any
such
payment
by
a
Withholding
Agent,
then
the
applicable
Withholding
Agent
shall
be
entitled
to
make
such
deduction
or

withholding
and
shall
timely
pay
the
full
amount
deducted
or
withheld
to
the
relevant
Governmental
Authority
in
accordance
with
applicable
law
and,
if
such
Tax
is
an
Indemnified
Tax,
then
the
sum
payable
by
Borrower
shall
be
increased
as
necessary
so
that
after
such
deduction
or
withholding
has
been
made

(including such deductions and withholdings applicable to additional sums payable under this Section 3.05) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b)

Payment of Other Taxes by Borrower. Borrower shall timely pay to the

relevant
Governmental
Authority
in
accordance
with
applicable
law,
or
at
the
option
of
the
Administrative
Agent
timely
reimburse
it
for
the
payment
of,
any
Other
Taxes.

(c)

Indemnification
by
Borrower.
Without
duplication
of
any
obligation
under
Section
3.05(b).
Borrower
shall
indemnify
each
Recipient,
within 10 days
after
written
demand
therefor,
for

the
full
amount
of
any
Indemnified
Taxes
(including
Indemnified
Taxes
imposed
or
asserted
on
or
attributable
to
amounts
payable
under
this
Section
3.05).
payable
or
paid
by
such
Recipient
or
required
to
be
withheld
or
deducted
from
a
payment
to
such
Recipient
and
any
reasonable
out-
of-
pocket
expenses
arising

therefrom
or
with
respect
thereto,
whether
or
not
such
Indemnified
Taxes
were
correctly
or
legally
imposed
or
asserted
by
the
relevant
Governmental
Authority.
A
certificate
as
to
the
amount
of
such
payment
or
liability
delivered
to
Borrower
by
a

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■

Lender
(with

a
copy
to
the
Administrative
Agent),
or
by
the
Administrative
Agent
on
its
own
behalf
or
on
behalf
of
a
Lender,
shall
be
conclusive
absent
manifest
error.

(d)

Indemnification
by
the
Lenders.
Each
Lender
shall
severally
indemnify
the
Administrative
Agent,
within 10 days
after
demand
therefor,
for
(i) any
Indemnified
Taxes
attributable

to
such
Lender
(but
only
to
the
extent
that
Borrower
has
not
already
indemnified
the
Administrative
Agent
for
such
Indemnified
Taxes
and
without
limiting
the
obligation
of
Borrower
to
do
so),
(ii) any
Taxes
attributable
to
such
Lender's
failure
to
comply
with
the
provisions
of
Section
9.05(d),
relating
to
the
maintenance

of
a
Participant
Register
and
(iii) any
Excluded
Taxes
attributable
to
such
Lender,
in
each
case,
that
are
payable
or
paid
by
the
Administrative
Agent
in
connection
with
any
Loan
Document,
and
any
reasonable
expenses
arising
therefrom
or
with
respect
thereto,
whether
or
not
such
Taxes
were
correctly
or
legally
imposed

or
asserted
by
the
relevant
Governmental
Authority.
A
certificate
as
to
the
amount
of
such
payment
or
liability
delivered
to
any
Lender
by
the
Administrative
Agent
shall
be
conclusive
absent
manifest
error.
Each
Lender
hereby
authorizes
the
Administrative
Agent
to
set
off
and
apply
any
and
all
amounts
at
any

time
owing
to
such
Lender
under
any
Loan
Document
or
otherwise
payable
by
the
Administrative
Agent
to
the
Lender
from
any
other
source
against
any
amount
due
to
the
Administrative
Agent
under
this
paragraph (d).

(e)

Evidence
of
Payments.
As
soon
as
practicable
after
any
payment
of
Taxes
by
Borrower

to
a
Governmental
Authority
pursuant
to
this
Section
3.05.
Borrower
shall
deliver
to
the
Administrative
Agent
the
original
or
a
copy
of
a
receipt
issued
by
such
Governmental
Authority
evidencing
such
payment
and
a
copy
of
the
return
reporting
such
payment
or
other
evidence
of
such
payment
reasonably
satisfactory
to

the
Administrative
Agent.

(f)

Status
of
Lenders.

(i)
Any
Recipient
that
is
entitled
to
an
exemption
from
or
a
reduction
of
withholding
Tax
with
respect
to
payments
made
under
any
Loan
Document
shall
deliver
to
Borrower
and
the
Administrative
Agent,
at
the
time
or
times
reasonably
requested
by
Borrower

or
the
Administrative
Agent,
such
properly
completed
and
executed
documentation
reasonably
requested
by
Borrower
or
the
Administrative
Agent
as
will
permit
such
payments
to
be
made
without
withholding
or
at
a
reduced
rate
of
withholding.
In
addition,
any
Recipient,
if
reasonably
requested
by
Borrower
or
the
Administrative
Agent,
shall
deliver

such
other
documentation
prescribed
by
applicable
law
or
reasonably
requested
by
Borrower
or
the
Administrative
Agent
as
will
enable
Borrower
or
the
Administrative
Agent
to
determine
whether
or
not
such
Recipient
is
subject
to
withholding
or
information
reporting
requirements.
Notwithstanding
anything
to
the
contrary
in
the
preceding
two
sentences,
the

completion,
execution
and
submission
of
such
documentation
(other
than
such
documentation
set
forth
in
paragraphs
(A),
(B)
and
(D)
of
Section
3.05(f)
(ii))
shall
not
be
required
if
in
the
Recipient's
reasonable
judgment
such
completion,
execution
or
submission
would
subject
such
Recipient
to
any
material
unreimbursed
cost
or
expense
or

would
materially
prejudice
the
legal
or
commercial
position
of
such
Recipient.

(ii) Without

limiting
the
generality
of
the
foregoing,

(A) any

Lender
that
is
a
US
Person
shall
deliver
to
the
Borrower
and
the
Administrative
Agent
on
or
about
the
date
on
which
such
Lender
becomes
a
Lender
under
this
Agreement

(and
from
time
to
time
thereafter
upon
the

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■

reasonable
request
of
the
Borrower
or
the
Administrative
Agent),
executed
copies
of
IRS
Form
W-
9
certifying
that
such
Lender
is
exempt
from
U.S.
federal
backup
withholding
tax;

(B)any
Foreign
Lender
shall,

to
the
extent
it
is
legally
entitled
to
do
so,
deliver
to
the
Borrower
and
the
Administrative
Agent
(in
such
number
of
copies
as
shall
be
requested
by
the
recipient)
on
or
about
the
date
on
which
such
Foreign
Lender
becomes
a
Lender
under
this
Agreement
(and
from
time
to

time
thereafter
upon
the
reasonable
request
of
the
Borrower
or
the
Administrative
Agent),
whichever
of
the
following
is
applicable:

(1)in

the
case
of
a
Foreign
Lender
claiming
the
benefits
of
an
income
tax
treaty
to
which
the
United
States
is
a
party
(x)
with
respect
to
payments
of
interest

under
any
Loan
Document,
executed
copies
of
IRS
Form
W-
8BEN
or
IRS
Form
W-
8BEN-
E
establishing
an
exemption
from,
or
reduction
of,
U.S.
federal
withholding
Tax
pursuant
to
the
"interest"
article
of
such
tax
treaty
and
(y)
with
respect
to
any
other
applicable
payments
under
any
Loan
Document,

IRS
Form
W-
8BEN
or
IRS
Form
W-
8BEN-
E
establishing
an
exemption
from,
or
reduction
of,
U.S.
federal
withholding
Tax
pursuant
to
the
"business
profits"
or
"other
income"
article
of
such
tax
treaty;

(2)executed

copies
of
IRS
Form
W-
8ECI;

(3)in

the
case
of
a
Foreign
Lender
claiming

the
benefits
of
the
exemption
for
portfolio
interest
under
Section
881(c)
of
the
Internal
Revenue
Code,
(X)
a
certificate
substantially
in
the
form
of
Exhibit
G-
1
to
the
effect
that
such
Foreign
Lender
is
not
a
“bank”
within
the
meaning
of
Section
881(c)
(3)
(A)
of
the
Internal
Revenue

Code,
a
"10
percent
shareholder"
of
the
Borrower
within
the
meaning
of
Section
871(h)
(3)
(B)
of
the
Internal
Revenue
Code,
or
a
"controlled
foreign
corporation"
related
to
the
Borrower
as
described
in
Section
881(c)
(3)
(C)
of
the
Internal
Revenue
Code
(a
"U.S.
Tax
Compliance
Certificate")
and
(y)
executed

copies
of
IRS
Form
W-
8BEN
or
IRS
Form
W
8BEN-
E;
or

(4)to

the
extent
a
Foreign
Lender
is
not
the
beneficial
owner,
executed
copies
of
IRS
Form
W-
8IMY,
accompanied
by
IRS
Form
W-
8ECI,
IRS
Form
W-
8BEN,
IRS
Form
W
8BEN-
E,
a
U.S.
Tax

Compliance
Certificate
substantially
in
the
form
of
Exhibit
G-
2
or
Exhibit
G-
3,
IRS
Form
W-
9,
or
other
certification
documents
from
each
beneficial
owner,
as
applicable;
provided
that
if
the
Foreign
Lender
is
a
partnership
and
one
or
more
direct
or
indirect
partners
of
such
Foreign
Lender
are

claiming
the
portfolio
interest
exemption,
such
Foreign
Lender
may
provide
a
U.S.
Tax
Compliance
Certificate
substantially
in
the
form
of
Exhibit
G-
4
on
behalf
of
each
such
direct
and
indirect
partner;

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■

(C)any

Foreign
Lender
shall,
to
the
extent
it

is
legally
entitled
to
do
so,
deliver
to
the
Borrower
and
the
Administrative
Agent
(in
such
number
of
copies
as
shall
be
requested
by
the
recipient)
on
or
about
the
date
on
which
such
Foreign
Lender
becomes
a
Lender
under
this
Agreement
(and
from
time
to
time
thereafter
upon
the

reasonable
request
of
the
Borrower
or
the
Administrative
Agent),
executed
copies
of
any
other
form
prescribed
by
Applicable
Law
as
a
basis
for
claiming
exemption
from
or
a
reduction
in
U.S.
federal
withholding
Tax,
duly
completed,
together
with
such
supplementary
documentation
as
may
be
prescribed
by
Applicable
Law
to
permit

the
Borrower
or
the
Administrative
Agent
to
determine
the
withholding
or
deduction
required
to
be
made;
and

(D)if
a
payment
made
to
a
Recipient
under
any
Loan
Document
would
be
subject
to
U.S.
federal
withholding
Tax
imposed
by
FATCA
if
such
Recipient
were
to
fail
to
comply
with
the

applicable
reporting
requirements
of
FATCA
(including
those
contained
in
Section
1471(b)
or 1472(b)
of
the
Internal
Revenue
Code),
such
Recipient
shall
deliver
to
Borrower
and
the
Administrative
Agent
at
the
time
or
times
prescribed
by
law
and
at
such
time
or
times
reasonably
requested
by
Borrower
or
the
Administrative
Agent
such

documentation
prescribed
by
applicable
law
(including
as
prescribed
by
Section
1471(b)
(3)
(C)
(i)
of
the
Internal
Revenue
Code)
and
such
additional
documentation
reasonably
requested
by
Borrower
or
the
Administrative
Agent
as
may
be
necessary
for
Borrower
and
the
Administrative
Agent
to
comply
with
their
obligations
under
FATCA
and
to

determine
that
such
Recipient
has
complied
with
such
Recipient's
obligations
under
FATCA
or
to
determine
the
amount
to
deduct
and
withhold
from
such
payment.
Solely
for
purposes
of
this
clause (D),
"FATCA"
shall
include
any
amendments
made
to
FATCA
after
the
date
of
this
Agreement.

Each
Recipient
agrees
that
if

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

(g)

Treatment
of
Certain
Refunds.
If
any
party
determines,

in
its
sole
discretion
exercised
in
good
faith,
that
it
has
received
a
refund
of
any
Taxes
as
to
which
it
has
been
indemnified
pursuant
to
this
Section
3.05
(including
by
the
payment
of
additional
amounts
pursuant
to
this
Section
3.05),
it
shall
pay
to
the
indemnifying
party
an
amount

equal
to
such
refund
(but
only
to
the
extent
of
indemnity
payments
made
under
this
Section
3.05
with
respect
to
the
Taxes
giving
rise
to
such
refund),
net
of
all
out-
of-
pocket
expenses
(including
Taxes)
of
such
indemnified
party
and
without
interest
(other
than
any
interest
paid
by
the

relevant
Governmental
Authority
with
respect
to
such
refund).
Such
indemnifying
party,
upon
the
request
of
such
indemnified
party,
shall
repay
to
such
indemnified
party
the
amount
paid
over
pursuant
to
this
paragraph (g).
(plus
any
penalties,
interest
or
other
charges
imposed
by
the
relevant
Governmental
Authority)
in
the
event
that
such

indemnified
party
is
required
to
repay
such
refund
to
such
Governmental
Authority.
Notwithstanding
anything
to
the
contrary
in
this
paragraph (g),
in
no
event
will
the
indemnified
party
be
required
to
pay
any
amount
to
an
indemnifying
party
pursuant
to
this
paragraph (g).
the
payment
of
which
would
place
the
indemnified
party

in
a
less
favorable
net
after-
Tax
position
than
the
indemnified
party
would
have
been
in
if
the
Tax
subject
to
indemnification
and
giving
rise
to
such
refund
had
not
been
deducted,
withheld
or
otherwise

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■

imposed
and
the
indemnification
payments
or

additional
amounts
with
respect
to
such
Tax
had
never
been
paid.
This
paragraph (g).
shall
not
be
construed
to
require
any
indemnified
party
to
make
available
its
Tax
returns
(or
any
other
information
relating
to
its
Taxes
that
it
deems
confidential)
to
the
indemnifying
party
or
any
other
Person.

(h)

Defined
Terms.
For
purposes
of
this
Section
3.05,
the
term
"applicable
law"
includes
FATCA.

(i)

Survival.
Each
party's
obligations
under
this
Section
3.05
shall
survive
the
resignation
or
replacement
of
the
Administrative
Agent
or
any
assignment
of
rights
by,
or
the
replacement
of,
a
Lender,
the
termination
of

the
Commitments
and
the
repayment,
satisfaction
or
discharge
of
all
obligations
under
any
Loan
Document.

SECTION

3.06 Sharing
of
Payments,
Etc.

If
any
Lender
shall,
by
exercising
any
right
of
setoff
or
counterclaim
or
otherwise,
obtain
payment
in
respect
of
any
principal
of
or
interest
on
the
Advances
or
other

obligations
hereunder
resulting
in
such
Lender
receiving
payment
of
a
proportion
of
the
aggregate
amount
of
its
Advances
and
accrued
interest
thereon
or
other
such
obligations
greater
than
its
pro
rata
share
thereof
as
provided
herein,
then
the
Lender
receiving
such
greater
proportion
shall
(a) notify
the
Administrative
Agent
of
such

fact,
and
(b) purchase
(for
cash
at
face
value)
participations
in
the
Advances
and
such
other
obligations
of
the
other
Lenders,
or
make
such
other
adjustments
as
shall
be
equitable,
so
that
the
benefit
of
all
such
payments
shall
be
shared
by
the
Lenders
ratably
in
accordance
with
the
aggregate
amount

of
principal
of
and
accrued
interest
on
their
respective
Advances
and
other
amounts
owing
them;
provided
that:

(i) if

any
such
participations
are
purchased
and
all
or
any
portion
of
the
payment
giving
rise
thereto
is
recovered,
such
participations
shall
be
rescinded
and
the
purchase
price
restored
to
the
extent

of
such
recovery,
without
interest;
and

(ii) the

provisions
of
this
Section
3.06
shall
not
be
construed
to
apply
to
(x)
any
payment
made
by
Borrower
pursuant
to
and
in
accordance
with
the
express
terms
of
this
Agreement
(including
the
application
of
funds
arising
from
the
existence
of
a
Defaulting

Lender),
or
(y) any
payment
obtained
by
a
Lender
as
consideration
for
the
assignment
of
or
sale
of
a
participation
in
its
Advances
to
any
assignee
or
participant,
other
than
to
Borrower
(as
to
which
the
provisions
of
this
Section
3.06
shall
apply).

Borrower
consents
to
the
foregoing
and
agrees,

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

amount
of
such
participation.

SECTION

3.07 Mitigation
Obligations:
Replacement
of
Lenders.

(a)

Designation
of
a
Different
Lending
Office.
If
any
Lender
requests
compensation
under
Section
3.03,
or
requires
Borrower
to
pay
any
Indemnified
Taxes
or
additional
amounts
to
any
Lender
or
any
Governmental
Authority
for
the
account
of
any
Lender

pursuant
to
Section
3.05,
then
such
Lender
shall
(at
the
request
of
Borrower)
use
reasonable
efforts
to

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-

designate
a
different
lending
office
for
funding
or
booking
its
Advances
hereunder
or
to
assign
its
rights
and
obligations
hereunder
to
another
of
its

offices,
branches
or
Affiliates,
if,
in
the
judgment
of
such
Lender,
such
designation
or
assignment
(i) would
eliminate
or
reduce
amounts
payable
pursuant
to
Section
3.03
or 3.05,
as
the
case
may
be,
in
the
future,
and
(ii) would
not
subject
such
Lender
to
any
unreimbursed
cost
or
expense
and
would
not
otherwise

be
disadvantageous
to
such
Lender.
Borrower
hereby
agrees
to
pay
all
reasonable
costs
and
expenses
incurred
by
any
Lender
in
connection
with
any
such
designation
or
assignment.

(b)

Replacement
of
Lenders.
If
any
Lender
requests
compensation
under
Section
3.03.
or
if
Borrower
is
required
to
pay
any
Indemnified
Taxes

or
additional
amounts
to
any
Lender
or
any
Governmental
Authority
for
the
account
of
any
Lender
pursuant
to
Section
3.05
and,
in
each
case,
such
Lender
has
declined
or
is
unable
to
designate
a
different
lending
office
in
accordance
with
Section
3.07(a),
or
if
any
Lender
is
a
Defaulting
Lender

or
a
Non-
Consenting
Lender,
then
Borrower
may,
at
its
sole
expense
and
effort,
upon
notice
to
such
Lender
and
the
Administrative
Agent,
require
such
Lender
to
assign
and
delegate,
without
recourse
(in
accordance
with
and
subject
to
the
restrictions
contained
in,
and
consents
required
by,
Section
9.05(a)),
all
of

its
interests,
rights
(other
than
its
existing
rights
to
payments
pursuant
to
Section
3.03
or
Section
3.05),
and
obligations
under
this
Agreement
and
the
related
Loan
Documents
to
an
Eligible
Assignee
that
shall
assume
such
obligations
(which
assignee
may
be
another
Lender,
if
a
Lender
accepts
such
assignment);
provided
that:

(i)Borrower

shall
have
paid
to
the
Administrative
Agent
the
assignment
fee
(if
any)
specified
in
Section
9.05:

(ii)such

Lender
shall
have
received
payment
of
an
amount
equal
to
the
outstanding
principal
of
its
Advances,
accrued
interest
thereon,
accrued
fees
and
all
other
amounts
payable
to
it
hereunder
and
under

the
other
Loan
Documents
(including
any
amounts
under
Section
9.02(g).
from
the
assignee
(to
the
extent
of
such
outstanding
principal
and
accrued
interest
and
fees)
or
Borrower
(in
the
case
of
all
other
amounts));

(iii) in

the
case
of
any
such
assignment
resulting
from
a
claim
for
compensation
under
Section

3.03

or

payments

required

to

be

made

pursuant

to

Section

3.05.

such

assignment

will

result

in

a

reduction

in

such

compensation

or

payments

thereafter;

(iv) such

assignment

does

not

conflict

with

applicable

law;

and

(v) in

the

case

of

any

assignment

resulting

from

a

Lender

becoming

a

Non-

Consenting

Lender,

the

applicable
assignee
shall
have
consented
to
the
applicable
amendment,
waiver
or
consent.

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

cease
to
apply.

Each
Lender
agrees
that
if
Borrower
exercises
its
option
hereunder
to
cause
an
assignment
by
such
Lender,
such
Lender
shall,
promptly
after
receipt
of
written
notice
of
such
election,
execute
and
deliver
all
documentation
necessary
to
effectuate
such
assignment
in
accordance
with
Section
9.05.

■

In
the
event
that
a
Lender
does
not
comply
with
the
requirements
of
the
immediately
preceding
sentence
within
one
Business
Day
after
receipt
of
such
notice,
each
Lender
hereby
authorizes
and
directs
the
Administrative
Agent
to
execute
and
deliver
such
documentation
as

may
be
required
to
give
effect
to
an
assignment
in
accordance
with
Section
9.05
on
behalf
of
a
replaced
Lender
and
any
such
documentation
so
executed
by
the
Administrative
Agent
shall
be
effective
for
purposes
of
documenting
an
assignment
pursuant
to
Section
9.05.

SECTION

3.08Use
of
Proceeds.
The
proceeds

of
the
Advances
shall
be
used
to
(i)
fund
Project
Costs,
(ii)
fund
the
Debt
Service
Reserve
Account
up
to
the
Debt
Service
Reserve
Requirement,
(iii)
fund
the
IDC
Reserve
Account
up
to
the
IDC
Reserve
Fund
Requirement,
and
(v)
for
general
corporate
purposes.

SECTION

3.09 Defaulting
Lenders.

(a)

Defaulting

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

(i)Waivers

and
Amendments.
Such
Defaulting
Lender's
right
to
approve
or
disapprove

any
amendment,
waiver
or
consent
with
respect
to
this
Agreement
shall
be
restricted
as
set
forth
in
the
definition
of
"Required
Lenders."

(ii) Defaulting

Lender
Waterfall.
Any
payment
of
principal,
interest,
fees
or
other
amounts
received
by
the
Administrative
Agent
for
the
account
of
such
Defaulting
Lender
(whether
voluntary
or

mandatory,
at
maturity,
pursuant
to
Article
VII
or
otherwise)
or
received
by
the
Administrative
Agent
from
a
Defaulting
Lender
pursuant
to
Section
9.03
shall
be
applied
at
such
time
or
times
as
may
be
determined
by
the
Administrative
Agent
as
follows:
first,
to
the
payment
of
any
amounts
owing
by

such
Defaulting
Lender
to
the
Administrative
Agent
hereunder;
second,
as
Borrower
may
request
(so
long
as
no
Default
or
Event
of
Default
exists),
to
the
funding
of
the
Advances
in
respect
of
which
such
Defaulting
Lender
has
failed
to
fund
its
portion
thereof
as
required
by
this
Agreement,
as
determined

by
the
Administrative
Agent;
third,
if
so
determined
by
the
Administrative
Agent
and
Borrower,
to
be
held
in
a
Deposit
Account
and
released
pro
rata
in
order
to
satisfy
such
Defaulting
Lender's
potential
future
funding
obligations
with
respect
to
the
Advances
under
this
Agreement;
fourth,
to
the
payment
of
any

amounts
owing
to
the
Lenders
as
a
result
of
any
judgment
of
a
court
of
competent
jurisdiction
obtained
by
any
Lender
against
such
Defaulting
Lender
as
a
result
of
such
Defaulting
Lender's
breach
of
its
obligations
under
this
Agreement;
fifth,
so
long
as
no
Default
or
Event
of
Default
exists,

to
the
payment
of
any
amounts
owing
to
Borrower
as
a
result
of
any
judgment
of
a
court
of
competent
jurisdiction
obtained
by
Borrower
against
such
Defaulting
Lender
as
a
result
of
such
Defaulting
Lender's
breach
of
its
obligations
under
this
Agreement;
and
sixth,
to
such
Defaulting
Lender
or
as

otherwise
directed
by
a
court
of
competent
jurisdiction;
provided
that
if
such
payment
is
a
payment
of
the
principal
amount
of
the
Advances
in
respect
of
which
such
Defaulting
Lender
has
not
fully
funded
its
appropriate
share,
such
payment
shall
be
applied
solely
to
pay
the
Advances
of
all
Non-

Defaulting
Lenders
on
a
pro
rata
basis
prior
to
being
applied
to
the
payment
of
any
Advances
of
such
Defaulting
Lender
until
such
time
as
the
Advances
are
held
by
the

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Lenders
pro
rata
in
accordance
with
the
Commitments
under
the

Facility.
Any
payments,
prepayments
or
other
amounts
paid
or
payable
to
a
Defaulting
Lender
that
are
applied
(or
held)
to
pay
amounts
owed
by
a
Defaulting
Lender
or
to
post
cash
collateral
pursuant
to
this
Section
3.09(a).
shall
be
deemed
paid
to
and
redirected
by
such
Defaulting
Lender,
and
each

Lender
irrevocably
consents
hereto.

(iii) Certain

Fees.
No
Defaulting
Lender
shall
be
entitled
to
receive
any
fee
pursuant
to
Section
3.02
for
any
period
during
which
that
Lender
is
a
Defaulting
Lender
(and
Borrower
shall
not
be
required
to
pay
any
such
fee
that
otherwise
would
have
been
required
to

have
been
paid
to
that
Defaulting
Lender).

(b)

Defaulting
Lender
Cure.

If
Borrower,
the
Administrative
Agent
and
Lenders
agree
in
writing
that
a
Lender
is
no
longer
a
Defaulting
Lender,
the
Administrative
Agent
will
so
notify
the
parties
hereto,
whereupon
as
of
the
effective
date
specified
in
such
notice

and
subject
to
any
conditions
set
forth
therein,
that
Lender
will,
to
the
extent
applicable,
purchase
at
par
that
portion
of
the
outstanding
Advances
of
the
other
Lenders
or
take
such
other
actions
as
the
Administrative
Agent
(acting
on
instructions
from
the
Required
Lenders)
may
determine
to
be
necessary
to

cause
the
Advances
and
funded
and
unfunded
participations
in
Notes
to
be
held
pro
rata
by
the
Lenders
in
accordance
with
the
Commitments
under
the
Facility,
whereupon
such
Lender
will
cease
to
be
a
Defaulting
Lender;
provided
that
no
adjustments
will
be
made
retroactively
with
respect
to
fees
accrued
or

payments
made
by
or
on
behalf
of
Borrower
while
that
Lender
was
a
Defaulting
Lender;
and
provided,
further,
that
except
to
the
extent
otherwise
expressly
agreed
by
the
affected
parties,
no
change
hereunder
from
Defaulting
Lender
to
Lender
will
constitute
a
waiver
or
release
of
any
claim
of
any
party

hereunder
arising
from
that
Lender's
having
been
a
Defaulting
Lender.

ARTICLE
IV
CONDITIONS
PRECEDENT

SECTION

4.01 Conditions
Precedent
to
Closing
Date.

The
occurrence
of
the
Closing
Date
is
subject
to
the
satisfaction
(or
waiver
in
accordance
with
Section
9.04)
of
the
following
conditions
precedent
before
or
concurrently
with
the

Closing

Date:

(a)

The

Administrative

Agent

shall

have

received

on

or

before

the

Closing

Date

the

following,

each

dated

as

of

the

Closing

Date

(unless

otherwise

specified),

in

form

and

substance

satisfactory

to

each

Lender

(unless

otherwise

specified):

(i)each

Loan

Document

duly

executed

by

the

Persons

party

thereto;

(ii)one

or
more
Notes
payable
to
the
applicable
Lender
to
the
extent
requested
by
such
Lender
pursuant
to
the
terms
of
Section
2.07:

(iii)a

Funding
Notice
in
respect
of
the
Borrowing
to
occur
on
the
Funding
Date;

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■

(iv)a

certificate
duly

executed
and
delivered
by
each
of
Borrower's
and
Holdings'
Secretary
or
Assistant
Secretary,
managing
member
or
general
partner
as
applicable,
as
to:

(A)the

full
force
and
validity
of
each
Organizational
Document
of
Borrower
and
Holdings
and
attaching
copies
thereof;

(B)resolutions

or
authorizations
of
the
board
of
managers,
members
or

directors,
as
applicable,
of
each
of
Borrower
and
Holdings
approving
each
Loan
Document
to
which
it
is
or
is
to
be
a
party,
and
of
all
documents
evidencing
other
necessary
corporate
or
limited
liability
company
action,
as
applicable,
of
each
such
Person,
if
any,
with
respect
to
each
Loan
Document

to
which
it
is
or
is
to
be
a
party;
and

(C)the

names
and
true
signatures
of
the
officers
or
other
authorized
representatives
of
such
Person
authorized
to
sign
each
Loan
Document
to
which
it
is
or
is
to
be
a
party
and
the
other
documents
to
be
delivered

hereunder
and
thereunder.

(v)a

copy
of
a
certificate
of
the
Secretary
of
State
of
the
jurisdiction
of
formation
of
each
of
Borrower
and
Holdings,
dated
reasonably
near
the
Closing
Date
certifying
(A) as
to
a
true
and
correct
copy
of
the
Organizational
Documents
of
such
Person
and
each
amendment
thereto

on
file
in
such
Secretary
of
State's
office
(or
otherwise
of
record)
and
(B) that
(1) such
amendments
are
the
only
amendments
to
such
Person's
Organizational
Documents
on
file
in
such
Secretary
of
State's
office
(or
appropriate
office
of
such
other
relevant
body),
and
(2) such
Person
is
duly
incorporated
or
formed,
as

applicable,
and
in
good
standing
or
presently
subsisting
under
the
laws
of
its
State
of
formation
or
incorporation;

(vi)a

certificate
from
a
Responsible
Officer
of
Borrower
acknowledging,
agreeing
and
certifying:

(A)as

to
the
delivery
to
the
Administrative
Agent
of
true,
correct
and
complete
copies
of
each
of
the:
(1)

Material
Contracts,
and
(2)
agreements
relating
to
existing
Debt,
including
the
Specified
Debt
Documents
and
copies
of
executed
amendments
to
each
of
the
Working
Capital
Financing
Documents
and
Stonebriar
Financing
Documents
reflecting
release
of
their
security
interests
over
Collateral;

(B)that

the
representations
and
warranties
of
each
of
Borrower
and

Holdings
set
forth
in
the
Loan
Documents
are
true
and
correct
in
all
material
respects
(except
where
already
qualified
by
materiality
or
Material
Adverse
Effect,
in
which
case,
such
representations
and
warranties
shall
be
true
and
correct
in
all
respects)
on
and
as
of
the
Closing
Date
(unless
stated
to

relate
solely
to
an
earlier
date,
in
which
case,
as
of
such
earlier
date);

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-

(C)that
immediately
following
the
Transactions
contemplated
to
be
consummated
as
of
the
Closing
Date,
none
of
Borrower
and
Holdings
shall
have
any
Debt
for
Borrowed
Money

other
than
Permitted
Debt;
and

(D)that

the
undelivered
equipment
specified
in
the
Holdback
Agreement
has
been
delivered.

(vii)unaudited

pro
forma
financial
statements
for
the
Fiscal
Quarter
ending
December
31,
2022,
of
each
Borrower
and
Holdings,
dated
as
of
the
Closing
Date,
prepared
after
giving
effect
to
the
Transactions
as

if
the
Transactions
had
occurred
as
of
such
date,
in
form
and
substance
satisfactory
to
each
Lender;

(viii)the

Base
Case
Projections;

(ix)an

annual
operating
budget
for
the
calendar
year
in
which
Closing
Date
occurs
(the
“Closing
Date
Operating
Budget
”),
which
shall
be
in
form
and
substance
satisfactory
to

each
Lender;

(x)copies
of
the
Independent
Engineer's
report
and
a
Phase
I
environmental
site
assessment
report
with
respect
to
the
RDU
Facility,
together
with
the
Reliance
Letters,
and
in
each
case,
brought
down
to
the
Closing
Date
and
otherwise
in
form
and
substance
satisfactory
to
each
Lender;
and

(xi)a

certificate
from
the
Insurance
Broker
in
form
and
substance
satisfactory
to
each
Lender
and
evidence
that
all
insurance
policies
required
to
be
obtained
by
or
on
behalf
of
Borrower
on
or
prior
to
the
Closing
Date
pursuant
to
Section
6.01(d).
have
been
obtained
and
are
in
full
force
and

effect
and
all
premiums
then
due
and
payable
thereon
have
been
paid
in
full.

(b)

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

(i)certificates

(if
any)
representing
the
Pledged
Equity
Interests
referred
to
therein
accompanied
by
undated
stock
powers
executed
in
blank
and
such
other
instruments
and
documents
as
shall
be
necessary
or
in
the
reasonable
opinion
of
each
Lender
desirable
under
applicable
law
to
perfect
the
priority
security
interest
(subject
to
certain

Permitted
Liens)
of
the
Collateral
Agent
in
all
such
shares
of
Pledged
Equity
Interests
and
any
instruments
comprising
Collateral;

(ii) appropriately

completed
UCC
financing
statements
(Form UCC-
1)
naming
each
of
Borrower
and
Holdings
as
debtor
and
the
Collateral
Agent
as
secured
party,
in
form
appropriate
for
filing
under
the
Uniform Commercial

Code
of
the
State
of
Delaware
covering
the
Collateral
described
in
the
Security
Documents;

(iii)lien

search
results,
dated
reasonably
near
the
Closing
Date,
listing
all
effective
financing
statements
and
tax
and
judgment
liens
which
name
either
Borrower
or
Holdings
(under
its
present
name
and
certain
of
its
previous
names)

as
the
debtor
and

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■

which
are
filed
in
certain
of
the
jurisdictions
in
which
filings
are
to
be
made
pursuant
to
Section
4.01(b).
(ii).
above,
together
with
copies
of
such
financing
statements;

(iv)evidence

that
all
other
action
that
the
Administrative

Agent
(acting
on
instructions
from
any
Lender)
may
deem
necessary
in
order
to
perfect
and
protect
the
first
priority
liens
and
security
interests
(subject
to
Permitted
Liens)
created
under
each
Security
Document
has
been
taken;
and

(c)

Borrower
shall
have
established
each
of
the
"Trust
Accounts"
under
and
as

defined
in
Article
3
of
the
CTA.

(d)

The
Lenders
and
the
Agents
shall
have
received,
to
the
extent
requested
at
least
five
(5)
Business
Days
prior
to
the
Closing
Date,
all
documentation
and
other
information
required
by
bank
regulatory
authorities
under
applicable
"know
your
customer"
and
Anti-
Money

Laundering
Laws
by
no
later
than
three
(3)
Business
Days
prior
to
the
Closing
Date.
|

(e)

Borrower
and
Holdings
shall
deliver
Beneficial
Ownership
Certifications
in
relation
to
such
Person
to
any
Lender
that
has
requested
such
certification
at
least
five
(5)
Business
Days
prior
to
the
Closing
Date.

(f)

The
representations
and
warranties
of
each
of
Borrower
and
Holdings
set
forth
in
the
Loan
Documents
shall
be
true
and
correct
in
all
material
respects
(except
where
already
qualified
by
materiality
or
Material
Adverse
Effect,
in
which
case,
such
representations
and
warranties
shall
be
true
and
correct
in
all

respects)
on
and
as
of
the
Closing
Date
(unless
stated
to
relate
solely
to
an
earlier
date,
in
which
case,
as
of
such
earlier
date);

(g)

No
Default
or
Event
of
Default
shall
have
occurred
and
be
continuing;
and

(h)

With
respect
to
the
Lease
Agreement
Property,
the
Administrative

Agent
shall
have
received
on
or
before
the
Closing
Date:

(i)a

Mortgage
encumbering
Borrower's
interest
in
the
Lease
Agreement
Property
duly
executed
by
Borrower,
in
the
requisite
form
for
recording
in
the
recording
office
of
Cascade
County,
Montana
(the
"Leasehold
Mortgage");

(ii)evidence

of
the
completion
(or
satisfactory
arrangements
for

the
completion)
of
all
recordings
and
filings
of
the
Leasehold
Mortgage
as
may
be
necessary
or,
in
the
reasonable
opinion
of
any
Lender,
desirable
to
effectively
create
a
valid,
perfected
Lien,
subject
only
to
Permitted
Liens,
against
Borrower's
interest
in
the
Lease
Agreement
Property;

(iii)evidence

of
the
payment
of

(or
satisfactory
arrangements
for
the
payment
of)
all
Title
Policy
premiums,
search
and
examination
charges
and
related
charges,
mortgage
recording
taxes,
fees,
costs
and
expenses
of
filing
of
the
Leasehold
Mortgage
as
may
be
necessary
or,
in
the
reasonable
opinion
of
any
Lender,
desirable
to
create
a
valid,
perfected
Lien

against
Borrower's
interest
in
the
Lease
Agreement
Property,
subject
only
to
Permitted
Liens;

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■

(iv)a
mortgagee's
title
insurance
policy
or
signed
commitment
to
issue
such
policy
in
favor
of
the
Collateral
Agent,
as
mortgagee,
and
issued
by
Fidelity
National
Title
Insurance

Company
(the
"Title
Insurance
Company"),
in
a
form
reasonably
satisfactory
to
the
Administrative
Agent,
insuring
the
Leasehold
Mortgage
constitutes
a
valid
priority
perfected
Lien
on
Borrower's
interest
in
the
Lease
Agreement
Property
(collectively,
the
"Title
Policy")
free
and
clear
of
all
Liens
other
than
Permitted
Liens,
and
such
Title
Policy

shall
also
include
such
endorsements
as
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
any
Lender)
shall
reasonably
request
to
the
extent
available
in
the
applicable
jurisdiction
at
commercially
reasonable
rates
(it
being
agreed
that
the
Lenders
will
accept
a
zoning
report
or
a
letter
from
the
applicable
municipality

if
obtainable
in
lieu
of
a
zoning
endorsement
if
a
zoning
endorsement
is
not
available
at
commercially
reasonable
rates
or
if
such
jurisdiction
is
not
subject
to
local
zoning
regulations);

(v)a

zip
map
of
the
Lease
Agreement
Property,
which
shall
be
sufficient
for
the
Title
Insurance
Company
to
issue

the
Title
Policy
without
the
standard
survey
exception
and
with
all
endorsements
required
pursuant
to
Section
4.01(h)
(iv)
and
certified
to
the
Collateral
Agent
and
the
Title
Insurance
Company
(the
“Zip
Map”);

(vi) such

UCC
financing
statements
as
may
be
necessary
to
perfect
the
Lien
on
the
fixtures
granted
in

Leasehold
Mortgage;

(vii)with
respect
to
each
Real
Estate
Asset,
a
completed
standard
"life
of
loan"
flood
hazard
determination
form
("Flood
Determination"),
and
if
any
portion
of
such
Real
Estate
Asset
includes
improvements
that
are
located
in
an
area
designated
by
the
U.S.
Federal
Emergency
Management
Agency
(or
any
successor

agency)
as
having
special
flood
or
mud
slide
hazards,
(i)
a
notification
to
Borrower
("Borrower's
Notice")
and
(if
applicable)
notification
to
Borrower
that
flood
insurance
coverage
under
the
National
Flood
Insurance
Program
("NFIP")
created
by
the
U.S.
Congress
pursuant
to
the
National
Flood
Insurance
Act
of
1968,
the
Flood
Disaster

Protection
Act
of
1973,
the
National
Flood
Insurance
Reform
Act
of
1994
and
the
Flood
Insurance
Reform
Act
of
2004
is
not
available
because
the
applicable
community
does
not
participate
in
the
NFIP,
(ii)
documentation
evidencing
Borrower's
receipt
of
Borrower's
Notice
(e.g.,
a
countersigned
Borrower's
Notice,
return
receipt
of
certified

U.S.
mail,
or
overnight
delivery),
and
(iii)
if
Borrower's
Notice
is
required
to
be
given
and
flood
insurance
is
available
in
the
community
in
which
the
Property
is
located,
a
copy
of
one
of
the
following:
the
flood
insurance
policy,
Borrower's
application
for
a
flood
insurance
policy
plus
proof
of

premium
payment,
a
declaration
page
confirming
that
flood
insurance
has
been
issued,
or
such
other
evidence
of
flood
insurance
reasonably
satisfactory
to
each
Lender.
The
Flood
Determinations
shall
be
obtained
by
Borrower's
counsel
for
all
of
the
to
be
Mortgaged
Properties
and
delivered
to
Collateral
Agent
not
less
than
ten

(10)
days
prior
to
the
recording
of
the
first
Mortgage
under
this
Agreement;
and

(viii) copies

of
the
Lease
Agreement
—
Stonebriar
duly
executed
by
each
of
the
parties
party
thereto.

(i)

Favorable
written
opinions
of
(A)
Norton
Rose
Fulbright
LLP,
special
New
York
counsel
to
Borrower
and
Holdings,
(B)

Browning,
Kaleczyc,
Berry
&
Hoven,
P.C.,
Montana

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■

counsel
to
Borrower
and
Holdings,
and
(C)
in-
house
counsel
to
the
Borrower,
in
each
case,
covering
such
matters
as
may
be
requested
by
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
any

Lender)
and
otherwise
in
form
and
substance
reasonably
satisfactory
to
the
Administrative
Agent;
and

(j)

Since
December
31,
2021,
there
has
not
been
any
event
that
has
resulted
in
or
could
reasonably
be
expected
to
result
in
a
Material
Adverse
Effect.

SECTION

4.02 Conditions
Precedent
to
Funding
Date.

It
shall
be
a
condition
precedent
to
the
Funding
Date
and
the
obligation
of
each
applicable
Lender
to
make
the
Advance
on
the
Funding
Date
that
the
following
conditions
be
satisfied:

(a)

The
Administrative
Agent
shall
have
received
on
or
before
the
Funding
Date
the
following,
each
dated
as

of
the
Funding
Date
(unless
otherwise
specified),
in
form
and
substance
satisfactory
to
the
Required
Lenders
(unless
otherwise
specified):

(i)a

true,
correct
and
complete
copy
of
each
of
the
(1)
Material
Contracts,
and
(2)
agreements
relating
to
existing
Debt,
including
the
Specified
Debt
Documents,
in
each
case,
then
in

effect
(to
the
extent
not
delivered
pursuant
to
Section
4.01(a)
(vi)
(A)
above;

(ii)a

duly
executed
letter
of
direction
from
Borrower
addressed
to
the
Administrative
Agent
directing
the
disbursement
on
the
Funding
Date
of
the
proceeds
of
the
Advance
made
on
such
date
(the
“Funds
Flow
Memorandum”)
in
form

and
substance
satisfactory
to
the
Required
Lenders;

(iii)a

Solvency
Certificate
in
substantially
the
form
of
Exhibit D
(the
“Solvency
Certificate”),
attesting
to
the
Solvency
of
Holdings
and
Borrower
(on
a
consolidated
basis)
after
giving
effect
to
the
Transactions,
signed
by
a
Financial
Officer
of
each
of
Holdings
and
Borrower;

(iv)a
certificate
from
a
Responsible
Officer
of
Borrower
acknowledging,
agreeing
and
certifying:

(A)as
to
the
delivery
to
the
Administrative
Agent
of
true,
correct
and
complete
copies
of
each
of
the:
(1)
Material
Contracts,
and
(2)
agreements
relating
to
existing
Debt,
including
the
Specified
Debt
Documents;
(B)that
the
representations
and

warranties
of
each
of
Borrower
and
Holdings
set
forth
in
the
Loan
Documents
are
true
and
correct
in
all
material
respects
(except
where
already
qualified
by
materiality
or
Material
Adverse
Effect,
in
which
case,
such
representations
and
warranties
shall
be
true
and
correct
in
all
respects)
on
and
as
of

the
Funding
Date
(unless
stated
to
relate
solely
to
an
earlier
date,
in
which
case,
as
of
such
earlier
date);

(v)a

copy
of
a
certificate
of
the
Secretary
of
State
of
the
jurisdiction
of
formation
of
Borrower
and
Holdings,
dated
reasonably
near
the
Funding
Date
certifying

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■

(A) as
to
a
true
and
correct
copy
of
the
Organizational
Documents
of
such
Person
and
each
amendment
thereto
on
file
in
such
Secretary
of
State's
office
(or
otherwise
of
record)
and
(B) that
(1) such
amendments
are
the
only
amendments
to
such
Person's
Organizational
Documents
on

file
in
such
Secretary
of
State's
office
(or
appropriate
office
of
such
other
relevant
body),
and
(2) such
Person
is
duly
incorporated
or
formed,
as
applicable,
and
in
good
standing
or
presently
subsisting
under
the
laws
of
its
State
of,
or
other
jurisdiction
of,
formation
or
incorporation
and

(b)

All

accrued
fees
under
the
Fee
Letters
and
all
accrued
expenses
subject
to
reimbursement
under
the
Loan
Documents
invoiced
at
least
three
Business
Days
prior
to
the
Funding
Date
shall
be
paid
(or
arrangements
for
such
payment
shall
have
been
made)
substantially
concurrently
with
the
proceeds
of
the
Borrowing
to
be

made
on
the
Funding
Date.

(c)

Concurrently
with
the
consummation
of
the
transactions
contemplated
hereby,
Borrower
shall
have
paid
all
accrued
and
unpaid
fees
and
all
accrued
and
unpaid
expenses
under
the
Fee
Letters
and
otherwise
of
the
Agents
and
the
Lenders
(including,
the
reasonable,
documented
and
out-
of-

pocket
accrued
and
unpaid
fees
and
expenses
of
counsel
thereto
to
the
extent
invoiced
at
least
three
Business
Days
prior
to
the
Funding
Date).

(d)

The
representations
and
warranties
of
each
of
Borrower
and
Holdings
set
forth
in
the
Loan
Documents
shall
be
true
and
correct
in
all
material

respects
(except
where
already
qualified
by
materiality
or
Material
Adverse
Effect,
in
which
case,
such
representations
and
warranties
shall
be
true
and
correct
in
all
respects)
on
and
as
of
the
Closing
Date
(unless
stated
to
relate
solely
to
an
earlier
date,
in
which
case,
as
of
such
earlier
date);

(e)

The
Debt
Service
Reserve
Account
shall
have
been
concurrently
fully
funded
in
an
aggregate
amount
equal
to
the
Debt
Service
Reserve
Requirement
through
the
deposit
of
cash
into
the
Debt
Service
Reserve
Account.

(f)

The
IDC
Reserve
Account
shall
have
been
concurrently
fully
funded
in
an
aggregate
amount

equal
to
the
IDC
Reserve
Fund
Requirement
through
the
deposit
of
cash
into
the
IDC
Reserve
Account.

(g)

No
Default
or
Event
of
Default
shall
have
occurred
and
be
continuing
or
would
result
from
the
Borrowing
to
be
made
on
the
Funding
Date
and
the
application
of
the

proceeds
therefrom.

(h)

Since
the
Closing
Date,
no
event,
circumstance
or
change
shall
have
occurred
and
be
continuing
that,
individually
or
in
the
aggregate,
has
resulted
in
a
Material
Adverse
Effect.

SECTION

4.03 Notices.

Any
Notice
shall
be
executed
by
a
Responsible
Officer
of
Borrower
in
a
writing
(including

by
telecopier
or
electronic
communication)
delivered
to
the
Administrative
Agent.

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ARTICLE
V
REPRESENTATIONS
AND
WARRANTIES

SECTION

5.01 Representations
and
Warranties.

In
order
to
induce
each
Agent
and
each
Lender
to
enter
into
this
Agreement
and
to
make
the
Advances
to
be

made
hereby,
Borrower
and
Holdings
represents
and
warrants
to
such
Agent
and
Lender
on
the
Closing
Date,
the
Funding
Date
and
on
any
other
date
that
representations
are
required
to
be
made
by
Borrower
and
Holdings
herein
all
of
the
items
referenced
in
this
Section
5.01:

(a)

Organization;
Requisite

Power
and
Authority.
Qualification.
Each
of
Borrower
and
Holdings
(i) is
duly
organized
or
formed,
validly
existing
and
in
good
standing
under
the
laws
of
the
State
of
Delaware, (ii)
has
all
requisite
power
and
authority
to
own
and
operate
its
Properties,
to
carry
on
its
business
as
now
conducted
and
as

proposed
to
be
conducted
except
where
such
failure
has
not
had,
and
could
not
reasonably
be
expected
to
have,
a
Material
Adverse
Effect,
(iii)
has
all
requisite
power
and
authority
to
enter
into
the
Loan
Documents
to
which
it
is
a
party
and
to
carry
out
the
transactions
contemplated
thereby

and
(iv) is
qualified
to
do
business
and
in
good
standing
in
every
jurisdiction
where
its
assets
are
located
and
wherever
necessary
to
carry
out
its
business
and
operations,
except
in
jurisdictions
where
the
failure
to
be
so
qualified
or
in
good
standing
has
not
had,
and
could
not
be
reasonably

expected
to
have,
a
Material
Adverse
Effect.

(b)

Equity
Interests
and
Ownership.

(i) The

Equity
Interests
of
Borrower
issued
to
Holdings
has
been
duly
authorized
and
validly
issued
and
is
fully
paid
and
non-
assessable
and
is
owned
by
Holdings
free
and
clear
of
all
Liens,
except
those
created

under
the
Security
Documents.

(ii) Except

as
set
forth
on
Schedule
5.01(b),
there
is
no
existing
option,
warrant,
call,
right,
commitment
or
other
agreement
to
which
Borrower
is
a
party
requiring,
and
there
is
no
Equity
Interests
of
Borrower
outstanding
which
upon
conversion
or
exchange
would
require,
the
issuance

by
Borrower
of
any
Equity
Interests
or
other
Securities
convertible
into,
exchangeable
for
or
evidencing
the
right
to
subscribe
for
or
purchase,
Equity
Interests
of
Borrower.
Schedule
5.01(b)
correctly
sets
forth
the
ownership
interest
of
Borrower.

(iii)Borrower

does
not
have
any
Subsidiaries.

(c)

Due
Authorization.
The
execution,
delivery
and

performance
of
the
Loan
Documents
to
which
Borrower
or
Holdings
is
a
party
have
been
duly
authorized
by
all
necessary
corporate,
limited
liability
company
or
limited
partnership
(as
applicable)
action
on
the
part
of
Borrower
or
Holdings,
as
applicable.

(d)

No
Conflict.
The
execution,
delivery
and
performance
by
Borrower

and/or
Holdings
of
the
Loan
Documents
to
which
it
is
a
party
and
the
transactions
contemplated
by
the
Loan
Documents
by
Borrower
and/or
Holdings,
as
applicable,
do
not
and
will
not
(i) violate
(A) any
provision
of
any
law
or
any
governmental
rule
or
regulation
applicable
to
Borrower
or
Holdings,
(B) any
of

the
Organizational
Documents
of
Borrower
or
Holdings
or
(C)
any
order,
judgment
or
decree
of
any
court
or
other
agency
of
government
binding
on
Borrower
or
Holdings

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-

except,
in
the
case
of
sub-
clauses (i).
(A).
and
(i).
(C).
of
this
clause (d).

where
such
violation
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect;
(ii) conflict
with,
result
in
a
breach
of
or
constitute
(with
due
notice
or
lapse
of
time
or
both)
a
default
under
any
Contractual
Obligation
binding
on
Borrower
or
Holdings
except
to
the
extent
such
conflict,
breach

or
default
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect;
(iii) result
in
or
require
the
creation
or
imposition
of
any
Lien
upon
any
of
the
Properties
of
Borrower
or
Holdings
(other
than
any
Permitted
Liens);
or
(iv) require
any
approval
of
stockholders,
members
or
partners
or
any
approval

or
consent
of
any
Person
under
any
Contractual
Obligation
of
Borrower
or
Holdings,
except
for
(A) such
approvals
or
consents
which
have
been
obtained
and
are
in
full
force
and
effect,
and
(B) any
such
approvals
or
consents
the
failure
of
which
to
obtain
could
not
reasonably
be
expected
to
have
a

Material
Adverse
Effect.

(e)

Governmental
Consents.

1

(i) The

execution,
delivery
and
performance
by
Borrower
and/or
Holdings
of
the
Loan
Documents
to
which
it
is
a
party
and
the
consummation
of
the
transactions
contemplated
by
the
Loan
Documents
by
Borrower
and/or
Holdings
do
not
require
any
registration
with,
consent
or

approval
of,
or
notice
to,
or
other
action
to,
with
or
by,
any
Governmental
Authority
except
for
(A) the
registrations,
consents,
approvals,
notices
or
other
actions
which
have
been
duly
obtained,
taken,
given
or
made
and,
are
in
full
force
and
effect,
(B) registrations,
consents,
approvals,
notices
or
other
actions
required
by

securities,
regulatory
or
applicable
law
in
connection
with
an
exercise
of
remedies
and
(C) such
registrations,
consents,
approvals,
notices
or
other
actions
that
if
not
obtained
and
maintained
in
full
force
and
effect
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(ii) Borrower

and
Holdings
are
in
compliance

with
all
applicable
Governmental
Authorizations
in
all
material
respects.

(iii) Except

as
disclosed
on
Schedule
5.01(e),
all
material
Governmental
Authorizations
which
are
required
to
be
obtained
in
connection
with
(x)
the
construction,
development,
conversion,
and
operation
of
the
RDU
Facility,
(y)
the
execution
and
delivery
of,
and
performance
by
Borrower

and
Holdings,
as
applicable,
of
their
respective
obligations
under,
the
Material
Contracts
to
which
it
is
a
party,
and
(z)
the
making
of
the
Advances
hereunder
and
the
execution
and
delivery
of,
and
performance
by
Borrower
and
Holdings
of
their
respective
obligations
under
the
Loan
Documents
to
which
it
is

a
party,
have
been
duly
obtained,
are
validly
issued,
are
in
full
force
and
effect,
are
not
subject
to
appeal
or
all
applicable
appeal
periods
have
expired
(other
than
Governmental
Authorizations
which
do
not
have
specific
statutory
limits
on
appeal
periods
pursuant
to
the
applicable
laws
under
which
they
were

issued),
are
held
in
the
name
of
Borrower
or
such
third
party
as
indicated
on
Schedule
5.01(e),
and
are
free
from
conditions
or
requirements
that
are
required
to
be
satisfied
and
have
not
been
satisfied,
except
as
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect.
No
Material

Adverse
Effect
could
reasonably
be
expected
to
result
from
any
such
Governmental
Authorizations
being
held
by
or
in
the
name
of
Persons
indicated
in
Schedule
5.01(e).
instead
of
in
the
name
of
Borrower.

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■

(iv) Except

as
set
forth
on
Schedule
5.01(e).

and
as
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
there
are
no
proceedings
pending
or,
to
Borrower's
or
Holdings'
knowledge,
threatened
that
could
reasonably
be
expected
to
result
in
a
rescission,
termination,
adverse
modification,
or
suspension
of
any
Governmental
Authorization.

(f)

Binding
Obligation.
Each
Loan

Document
to
which
Borrower
or
Holdings
is
a
party
has
been
duly
executed
and
delivered
by
Borrower
and/or
Holdings,
as
applicable,
and
is
the
legally
valid
and
binding
obligation
of
Borrower
and/or
Holdings,
as
applicable,
enforceable
against
such
Person
in
accordance
with
its
respective
terms,
except
as
may
be
limited

by
bankruptcy,
insolvency,
reorganization,
moratorium
or
similar
laws
relating
to
or
limiting
creditors'
rights
generally
or
by
equitable
principles
relating
to
enforceability.

(g)

Financial
Statements.
The
financial
statements
of
Borrower
furnished
to
the
Administrative
Agent
pursuant
to
Section
4.01(a).
(vii), Section
6.03(b).
and
(c).
fairly
present
in
all
material
respects

the
financial
condition
and
the
results
of
operations
and
cash
flows
of
Borrower
as
of
the
date
thereof,
all
in
accordance
with
GAAP
(subject
to
normal
year-
end
adjustments
and,
in
the
case
of
unaudited
financial
statements,
the
absence
of
footnotes).

(h)

Projections.
Each
of
the
Base
Case
Projections

and
the
Closing
Date
Operating
Budget
delivered
to
the
Administrative
Agent
pursuant
to
Section
4.01(a).
(vii).
and
Section
4.01(a).
(ix).
respectively,
are
based
on
good
faith
estimates
and
assumptions
made
by
the
management
of
Borrower,
which
assumptions
were
believed
by
management
of
Borrower
to
be
reasonable
at
the
time
of

preparation
of
such
projections,
budgets
and
forecasts;
it
being
understood
that
the
Base
Case
Projections
and
the
Closing
Date
Operating
Budget
are
not
to
be
viewed
as
facts,
are
subject
to
significant
uncertainties
and
contingencies
(many
of
which
are
beyond
Borrower's
control),
that
no
assurance
can
be
given
that
any

particular
projections,
budgets
or
forecasts
will
be
realized
and
that
the
actual
results
may
differ
from
such
projections,
budgets
and
forecasts
and
that
the
differences
may
be
material.

(i)

Adverse
Proceedings,
Etc.
Except
as
disclosed
in
Schedule
5.01(i).
there
are
no
Adverse
Proceedings,
individually
or
in
the
aggregate,
that
could

reasonably
be
expected
to
have
a
Material
Adverse
Effect.
Each
of
Borrower
and
Holdings
is
not
subject
to
or
in
default
with
respect
to
any
final
judgments,
writs,
injunctions,
decrees,
rules
or
regulations
of
any
court
or
any
federal,
state,
municipal
or
other
governmental
department,
commission,
board,
bureau,
agency
or

instrumentality,
domestic
or
foreign,
that,
individually
or
in
the
aggregate,
could
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(j)

Taxes.

(i) Except

as
otherwise
permitted
under
Section
6.01(b),
all
material
tax
returns
of
Borrower
and
Holdings
required
to
be
filed
by
any
of
them
have
been
duly
filed

on
a
timely
basis,
and
all
material
Taxes
due
and
payable
by
Borrower
and
Holdings
have
been
collected,
remitted
and
paid
when
due
and
payable.

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-

(ii)No

tax
liens
have
been
filed,
and,
to
Borrower's
and
Holdings'
knowledge,
no
claim
is

being
asserted,
with
respect
to
any
such
Tax,
fee
or
other
charge.
Borrower
and
Holdings
are
not
party
to
any
tax
sharing
agreement.

(iii) There

are
no
agreements,
waivers
or
other
arrangements
providing
for
an
extension
of
time
with
respect
to
filing
of
any
tax
return
or
the
payment
of

any
Taxes
or
remittances
described
above.

(iv) Except

as
disclosed
in
writing
or
as
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
there
is
no
audit,
claim,
assessment,
action
or
proceeding
pending,
proposed
in
writing
or
threatened
by
any
Governmental
Authority
against
Borrower
or
Holdings
regarding
any

Taxes
relating
to
Borrower
or
Holdings,
as
applicable,
and
to
Borrower'
and/or
Holdings'
knowledge,
no
such
proceedings
or
actions
are
being
contemplated
by
such
authorities,
which
is
not
being
contested
by
Borrower
or
Holdings,
as
applicable,
in
good
faith
and
by
appropriate
proceedings;
provided
that
reserves
or
other
appropriate
provisions,

if
any,
as
shall
be
required
in
conformity
with
GAAP
shall
have
been
made
or
provided
therefor.

(k)

Environmental
Matters.

(i) Except

as
disclosed
on
Schedule
5.01(k).
except
as
could
not
reasonably
be
expected,
individually
or
in
the
aggregate,
to
have
a
Material
Adverse
Effect,
(A) none
of
Borrower,
Holdings
and

their
respective
Properties
or
operations
is
or
has
been
in
violation
of
any
Environmental
Laws,
including,
without
limitation,
any
Governmental
Authorizations
issued
pursuant
to
any
Environmental
Law,
(B) none
of
Borrower,
Holdings
and
their
respective
Properties
or
operations
is
subject
to
any
outstanding
written
order,
consent
decree
or
settlement
agreement
with

any
Person
relating
to
any
Environmental
Law,
any
Environmental
Action,
or
any
Hazardous
Materials
Activity,
(C) none
of
Borrower
and
Holdings
has
received
any
letter
or
request
for
information
relating
to
the
RDU
Facility
under
Section
104
of
the
Comprehensive
Environmental
Response,
Compensation,
and
Liability
Act
(42
U.S.C.
§ 9604)
or
any

comparable
state
law
and
(D) none
of
Borrower
and
Holdings
and
their
respective
Properties
or
operations
is
subject
to
any
actual
or,
to
Borrower's
and/or
Holdings'
knowledge,
threatened
Environmental
Action.

(ii) Borrower

and
Holdings
have
not
received
any
written
notice
under
any
Environmental
Law
indicating
past
or
present
treatment,
storage
or

disposal
of
Hazardous
Materials
at
the
Real
Estate
Assets
of
the
RDU
Facility
that
could
be
reasonably
be
expected
to
have,
individually
or
in
the
aggregate,
a
Material
Adverse
Effect.

(iii) Compliance

of
Borrower
and
Holdings
with
all
current
requirements
pursuant
to
or
under
Environmental
Laws,
including,
without
limitation,
any

Governmental
Authorizations
issued
pursuant
to
any
Environmental
Law,
would
not
require
actions
that
could
be
reasonably
expected
to
have,
individually
or
in
the
aggregate,
a
Material
Adverse
Effect.

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■

(iv) To
Borrower's
or
Holdings'
knowledge,
no
event
or
condition
has
occurred
or

is
occurring
with
respect
to
the
RDU
Facility
or
Borrower,
Holdings,
Calumet
or
any
of
their
respective
Properties
or
operations
relating
to
any
Environmental
Law,
any
Environmental
Action,
any
Release
of
Hazardous
Materials,
or
any
Hazardous
Materials
Activity,
which
individually
or
in
the
aggregate
could
reasonably
be
expected
to
have,

a
Material
Adverse
Effect.

(v)Each
of
Borrower,
Holdings
and
Calumet
is
in
compliance
with
all
material
applicable
investigative,
cleanup,
closure,
remediation
and
other
corrective
or
remedial
action
requirements
pursuant
to
Governmental
Authorizations
with
respect
to
any
Hazardous
Materials
located
at,
in,
on
or
under
the
RDU
Facility.

(l)

Labor.

Except
as,
individually
or
in
the
aggregate,
would
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect:
(a)
the
hours
worked
and
payments
made
to
employees
of
Borrower
have
not
been
in
violation
of
the
Fair
Labor
Standards
Act
or
any
other
applicable
law
dealing
with
such
matters;
and

(b)
all
payments
due
from
Borrower
or
for
which
any
claim
may
be
made
against
Borrower,
on
account
of
wages
and
employee
health
and
welfare
insurance
and
other
benefits
have
been
paid
or
accrued
as
a
liability
on
the
books
of
Borrower
to
the
extent
required
by
GAAP.
Except
as,

individually
or
in
the
aggregate,
would
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
(i)
with
respect
to
the
RDU
Facility,
Borrower
has
not
and
have
not
been
within
the
past
two
(2)
years
(x)
a
party
to
or
bound
by
any
collective
bargaining
or
similar
agreement
with

any
union,
labor
organization
or
other
bargaining
agent
other
than
as
set
forth
on
Schedule
5.01(I)
attached
hereto
or
(Y)
subject
to
any
labor
disputes,
strikes
or
work
stoppages,
requests
for
arbitration,
grievance
proceedings
or
union
negotiations
or
organizational
efforts,
and
(ii)
to
the
knowledge
of
Borrower
and
Holdings,
with

respect
to
the
RDU
Facility,
there
has
not
been
in
the
past
three
(3)
years,
any
organized
effort
or
demand
for
recognition
or
certification
or
attempt
to
organize
employees
of
Borrower
by
any
labor
organization.
There
are
no
strikes,
slowdowns
or
work
stoppages
ongoing
or
threatened
in
writing
by
the

employees
of
Borrower
or
Calumet
that
have
caused
or
could
reasonably
be
expected
to
cause
a
Material
Adverse
Effect.

(m)

Contracts.

(i) True,

correct
and
complete
copies
of
the
Material
Contracts
and
Specified
Debt
Documents
have
been
delivered,
or
made
available
to,
the
Administrative
Agent
on
the
Closing
Date

and
Funding
Date.

(ii)Each

Material
Contract
is
in
full
force
and
effect.

(iii)Borrower

is
not
in
material
default
and,
to
Borrower's
knowledge,
there
are
no
existing
material
defaults
under
any
Material
Contract,
Specified
Debt
Document
and
no
event
has
occurred
or
is
continuing
that
gives
any
Person
party
thereto

the
right
to
terminate
any
such
Material
Contracts
or
accelerate
any
Debt
owed
under
any
Specified
Debt
Document.

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(iv) There

are
no
material
contracts,
services,
materials
or
rights
required
for
the
operation
of
RDU
Facility
other
than
those
granted
by,
or

to
be
provided
to
Borrower
pursuant
to,
the
Material
Contracts.

(n)

Governmental
Regulation.

(i)Each

of
Borrower
and
Holdings
is
not
subject
to
regulation
under
the
Investment
Company
Act
of 1940
or
under
any
other
federal
or
state
statute
or
regulation
which
may
limit
its
ability
to
incur
Debt
or
which

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

(ii) Each

of
Borrower
and
Holdings
is
not
a
“registered
investment
company”
or
a
company
“controlled”
by
a
“registered
investment
company”
or
a
“principal
underwriter”
of
a
“registered
investment
company”
as
such

terms
are
defined
in
the
Investment
Company
Act
of 1940.

(o)

Use
of
Proceeds:
Margin
Stock.
The
proceeds
of
the
Advances
and
other
extensions
of
credit
hereunder
have
been
or
will
be
used
solely
in
accordance
with,
and
solely
for
the
purposes
contemplated
by,
Section
3.08.
Each
of
Borrower
and

Holdings
is
not
engaged
principally,
or
as
one
of
its
important
activities,
in
the
business
of
extending
credit
for
the
purpose
of
purchasing
or
carrying
any
Margin
Stock.
No
part
of
the
proceeds
of
the
Advances
will
be
used
to
purchase
or
carry
any
such
Margin
Stock
or
to
extend

credit
to
others
for
the
purpose
of
purchasing
or
carrying
any
such
Margin
Stock
or
for
any
purpose
that
violates,
or
is
inconsistent
with,
the
provisions
of
Regulation T,
U
or
X
of
the
Board
of
Governors.

(p)

Employee
Benefit
Plans.
Except
as
could
not
reasonably
be
expected,
individually
or

in
the
aggregate,
to
have
a
Material
Adverse
Effect,
(i) each
of
Borrower
and
Holdings
and
each
of
their
respective
ERISA
Affiliates
are
in
compliance
with
all
applicable
provisions
and
requirements
of
ERISA
and
the
Internal
Revenue
Code
and
the
regulations
and
published
interpretations
thereunder
with
respect
to
each
Employee
Benefit

Plan,
(ii) each
Employee
Benefit
Plan
which
is
intended
to
qualify
under
Section
401(a)
of
the
Internal
Revenue
Code
has
received
a
favorable
determination
letter
from
the
IRS
indicating
that
such
Employee
Benefit
Plan
is
so
qualified
and,
to
Borrower's,
and
Holdings'
knowledge,
nothing
has
occurred
subsequent
to
the
issuance
of

such
determination
letter
which
could
cause
such
Employee
Benefit
Plan
to
lose
its
qualified
status,
(iii) no
liability
to
the
PBGC
(other
than
required
premium
payments),
the
IRS,
any
Employee
Benefit
Plan
or
any
trust
established
under
Title IV
of
ERISA
has
been
or
is
reasonably
expected
to
be
incurred
by
Borrower

or
Holdings
or
any
of
their
ERISA
Affiliates,
(iv) no
ERISA
Event
has
occurred
or
is
reasonably
expected
to
occur,
and
(v) Borrower,
Holdings
and
each
of
their
ERISA
Affiliates
have
complied
with
the
requirements
of
Section
515
of
ERISA
with
respect
to
each
Multiemployer
Plan
and
are
not
in
“default”
(as

defined
in
Section
4219(c)
(5)
of
ERISA)
with
respect
to
payments
to
a
Multiemployer
Plan.

(q)

Certain
Fees.
No
broker's
or
finder's
fee
or
commission
will
be
payable
by
Borrower
or
Holdings
with
respect
hereto
or
to
any
of
the
transactions
contemplated
by
the
Loan
Documents,
except
as
payable

to
the
Agents
and
the
Lenders
pursuant
to
the
Loan
Documents.

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(r)
Solvency.
Borrower
and
Holdings,
taken
as
a
whole,
are
as
of
the
Closing
Date
and
the
Funding
Date,
immediately
after
giving
effect
to
the
Transactions,
and
on
each

date
on
which
this
representation
and
warranty
is
made
thereafter,
Solvent.

(s)

Compliance
with
Statutes,
Etc.
Each
of
Borrower
and
Holdings
is
in
compliance
with
all
applicable
statutes,
regulations
and
orders
of,
and
all
applicable
restrictions
imposed
by,
all
Governmental
Authorities,
in
respect
of
the
operation
of
the
RDU

Facility,
the
conduct
of
its
business
and
the
ownership
of
its
property,
except
such
non-
compliance
that,
individually
or
in
the
aggregate,
could
not
reasonably
be
expected
to
result
in
a
Material
Adverse
Effect.

(t)

Disclosure.
To
'Borrower'
and/or
'Holdings'
knowledge,
all
written
information
(other
than
projections,
budgets,
forecasts,

other
forward-
looking
information,
historical
financial
information,
reports
prepared
by
third
party
consultants
or
information
of
a
general
economic
nature)
provided
by
or
on
behalf
of
Borrower
or
Holdings
to
any
Agent
or
Lender
in
connection
with
the
transactions
contemplated
hereunder
is,
when
taken
as
a
whole,
complete
and
correct

in
all
material
respects
and
does
not
contain
any
untrue
statement
of
a
material
fact
or
omit
to
state
a
material
fact
necessary
to
make
the
statements
contained
therein,
when
taken
as
a
whole,
not
materially
misleading
in
light
of
the
circumstances
under
which
such
statements
were
made
(giving
effect

to
supplements
and
updates
thereto).

(u)

Patriot
Act.
To
the
extent
applicable,
Borrower,
Holdings
and
each
of
its
Affiliates
is
in
compliance,
in
all
material
respects,
with
the
(i) Trading
with
the
Enemy
Act,
as
amended,
and
each
of
the
foreign
assets
control
regulations
of
the
United
States
Treasury
Department

(31
CFR,
Subtitle B,
Chapter V,
as
amended)
and
any
other
enabling
legislation
or
executive
order
relating
thereto,
and
(ii) Patriot
Act.
No
part
of
the
proceeds
of
the
Advances
will
be
used,
directly
or
indirectly
by
Borrower,
for
any
payments
to
any
governmental
official
or
employee,
political
party,
official
of
a
political

party,
candidate
for
political
office,
or
anyone
else
acting
in
an
official
capacity,
in
order
to
obtain,
retain
or
direct
business
or
obtain
any
improper
advantage,
in
violation
of
the
United
States
Foreign
Corrupt
Practices
Act
of 1977
or
any
other
applicable
anti-
bribery
or
anti-
corruption
law.

(v)

Security

Interests.
The
Liens
granted
to
the
Collateral
Agent
pursuant
to
the
Security
Documents
with
respect
to
the
Collateral
(i) to
the
extent
required
by
the
Security
Documents,
constitute
perfected
security
interests
in
such
rights,
title
or
interest
as
Borrower
and
Holdings
shall
from
time
to
time
have
in
all
personal
property

included
in
the
Collateral,
and
(ii) are
subject
to
no
Liens,
except
Permitted
Liens.
Except
to
the
extent
possession
of
portions
of
the
Collateral
is
required
for
perfection,
all
such
action
as
is
necessary
has
been
taken
to
establish
and
perfect
the
Collateral
Agent's
rights
in
and
to
the
Collateral,
including

any
recording,
filing,
registration,
giving
of
notice
or
other
similar
action
(assuming
proper
recording
of
any
such
documents).
Subject
to
any
post-
closing
items,
conditions
and
obligations,
to
the
extent
required
by
the
Security
Documents,
each
of
Borrower
and
Holdings
have
properly
delivered
or
caused
to
be
delivered,
or
provided

control
of,
to
the
Collateral
Agent
all
Collateral
that
requires
perfection
of
the
Lien
described
above
by
possession
or
control.

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-

(w)

Deposit
Accounts
and
Securities
Accounts.
Other
than
the
Deposit
Accounts
and
Securities
Accounts
that
are
permitted
to
exist
pursuant

to
Section
6.01(k),
Borrower
does
not
have
any
other
Deposit
Accounts
or
Securities
Accounts.

(x)

Property.
As
of
the
Closing
Date
and
Funding
Date:

(i) Except

for
any
such
failure
which
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
Borrower
has
valid
title
to
all
personal
property

that
it
purports
to
own
(including
the
personal
property
comprising
the
RDU
Facility),
free
and
clear
of
all
Liens
except
Permitted
Liens,
and
Borrower
has
rights
or
interest
to
or
in
the
Real
Estate
Assets
reasonably
required
to
construct
and
operate
the
RDU
Facility
in
accordance
with
the
Material
Contracts,

Applicable
Law
and
Prudent
Industry
Practice.
Borrower
has
good
and
marketable
title
or
a
valid
and
subsisting
estate
or
interest
to
or
in
the
Real
Estate
Assets,
free
and
clear
of
all
Liens
except
Permitted
Liens;

(ii) Holdings

has
valid
title
to
all
personal
property
that
it
purports
to
own

(including
the
Equity
Interests
in
Borrower),
free
and
clear
of
all
Liens
except
Permitted
Liens;

(iii) Each

of
Borrower
and
Holdings
has
a
valid
and
subsisting
estate
or
interest
as
beneficial
owner
of
the
Collateral,
free
and
clear
of
all
Liens
except
Permitted
Liens;

(iv) the

Real
Estate
Documents
and
the

documents
referenced
in
Schedule
V
(A)
represent
the
entire
agreement
between
the
respective
parties
thereto
with
respect
to
the
interests
in
real
property
described
therein
and
use
and
occupancy
thereof,
and
there
are
no
other
agreements
or
modifications,
whether
oral
or
written,
with
respect
thereto,
other
than
as
disclosed
in

writing
to
the
Administrative
Agent
on
or
prior
to
the
Funding
Date
or
entered
into
in
accordance
with
this
Agreement,
(B)
represent
all
material
documents,
agreements,
and
instruments
that
provide
Borrower
with
real
property
interests
in
furtherance
of
the
RDU
Facility,
(C)
grant
to
Borrower
all
of
the
material
real

property
interests
necessary
for
the
operation
of
the
RDU
Facility,
(D)
except
as
specified
in
Schedule
II,
have
not
been
amended,
supplemented,
modified
or
assigned
in
any
way
by
Borrower,
Calumet,
or
to
Borrower's
or
Holdings'
knowledge,
any
other
Person
and
(E)
to
Borrower's
and
Holdings'
knowledge,
have
not
been

waived,
surrendered,
canceled,
abandoned
or
terminated
by
any
other
party
thereto;

(v)no

counterparty
to
any
Real
Estate
Document,
to
Borrower's,
and
Holdings'
knowledge,
is
in
material
breach
or
default
of
such
Real
Estate
Document;

(vi)to

Borrower's
and
Holdings'
knowledge,
no
event
has
occurred
which,
with
or
without
notice
or

*lapse
of
time
or
both,
would
constitute
a
material
breach
or
default
thereunder
by
any
counterparty
to
a
Real
Estate
Document
or
permit
termination
or
acceleration
by
any
party
(other
than
Borrower)
under
such
Real
Estate
Document;
and*

(vii)all

*material
rents,
rentals,
charges,
fees
and
royalties
currently
due
and*

payable
by
Borrower
pursuant
to
the
Real
Estate
Documents
have
been
paid.

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■

(viii)As

of
the
date
of
delivery
of
the
standard
flood
hazard
determination
for
the
Mortgaged
Property
pursuant
to
Section
4.01(h)
(vii).
except
as
set
forth
on,
and
based

solely
upon,
such
flood
hazard
determinations,
no
material
portion
of
the
Mortgaged
Property
as
of
such
date
is
located
in
an
area
designated
by
the
Federal
Emergency
Management
Agency
as
having
special
flood
or
mud
slide
hazards;

(ix) the

Ongoing
Work
constitutes
a
true,
correct
and
complete
list
of
the

construction
work
at
the
Property;
and

(x)the

Owner's
Affidavit
sets
forth
a
true,
correct
and
complete
estimate
of
(i)
any
unpaid
costs
of
the
Ongoing
Work
and
(ii)
any
disputed
sums
with
respect
to
any
materialmen,
repairmen,
construction
contractors
or
other
like
Persons
that
have
performed
work
at
the

Property
and
that
could
give
rise
to
any
Liens.

(y)

Pari
Passu.
Borrower's
obligations
under
this
Agreement
rank
and
will
rank
at
least
pari
passu
in
priority
of
payment
and
in
all
other
respects
with
all
other
present
or
future
unsecured
and
secured
Debt
for
Borrowed
Money
of
Borrower,

other
than
Debt
under
the
Working
Capital
Financing
Documents
and
liabilities
and/or
Debt
under
any
Inventory
Financing
Facility
permitted
hereunder.

(z)

Intellectual
Property.
Borrower
owns
or
has
the
right
to
use
all
material
patents,
trademarks,
service
marks,
trade
names,
domain
names,
copyrights,
licenses
and
other
material
rights
which
are

necessary
for
the
ownership
and
operation
of
the
RDU
Facility
in
accordance
with
the
Transaction
Documents.
No
material
product,
process,
method,
substance,
part
or
other
material
presently
contemplated
to
be
sold
or
employed
by
Borrower
in
connection
with
its
business
will
infringe
any
patent,
trademark,
service
mark,
trade
name,
domain

name,
copyright,
license
or
other
right
owned
by
any
other
Person
in
any
material
manner.

(aa)

Insurance.
All
insurance
policies
required
to
be
obtained
by
or
on
behalf
of
Borrower
pursuant
to
Section
6.01(d).
have
been
obtained
and
are
in
full
force
and
effect
and
all
premiums
then
due

and
payable
thereon
have
been
paid
in
full.
Borrower
has
not
received
any
notice
from
any
insurer
that
any
insurance
policy
has
ceased
to
be
in
full
force
and
effect
or
claiming
that
the
insurer's
liability
under
any
such
insurance
policy
can
be
reduced
or
avoided.

(bb)

OFAC
and

Related
Matters.

(i)Neither

Borrower,
Holdings
nor
any
director
or
officer
thereof,
nor,
to
Borrower's
actual
knowledge,
any
agent
acting
on
its
behalf,
controlled
Affiliate
or
employee
of
Borrower,
or
Holdings
is
an
individual
or
entity
that
is,
or
is
owned
or
Controlled
by
a
Person
that
is:
(A)
the

subject
of
any
sanctions
administered
or
enforced
by
the
United
States
(including
but
not
limited
to
OFAC,
the
U.S.
Department
of
State,
and
the
U.S.
Department
of
Commerce),
the
United
Nations
Security
Council,
the
European
Union
and
its
individual
member
states,
Canada,
the
United
Kingdom,
including
but
not
limited
to

His
Majesty's
Treasury,
and/or
any
other
relevant
sanctions
authority
(collectively,
"Sanctions"),
nor
(B)
located,
organized
or
resident
in
a
country
or
territory
that
is
the
subject
of
Sanctions
(as
of
the
date
hereof,
without
limitation,
the
so-
called

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■

Donetsk
People's
Republic,

the
so-
called
Luhansk
People's
Republic,
the
Crimea
Region
of
Ukraine,
Cuba,
Iran,
North
Korea,
Russia
and
Syria).

(ii) Borrower

represents
that
it
will
not
(and
will
cause
the
RDU
Facility
not
to),
directly
or
indirectly,
use
the
proceeds
of
the
Advances,
or
lend,
contribute
or
otherwise
make
available
such

proceeds
to
any
Subsidiary,
Joint
Venture
partner
or
other
Person
(A)
to
fund
or
facilitate
any
activities
or
business
of
or
with
any
Person
or
in
any
country
or
territory
that,
at
the
time
of
such
funding
or
facilitation,
is
the
subject
of
Sanctions;
or
(B)
in
any
other
manner

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

(iii) The

operations
of
Borrower
are
and
have
been
conducted
at
all
times
in
compliance,
in
all
material
respects,
with
financial
recordkeeping
and
reporting
requirements,

including
those
of
the
Bank
Secrecy
Act,
as
amended
by
the
Patriot
Act,
and
the
applicable
anti-
money
laundering
statutes
of
jurisdictions
where
Borrower
and
any
of
its
respective
directors,
officers
and
Affiliates
conduct
business,
the
rules
and
regulations
thereunder
and
any
related
or
similar
rules,
regulations
or
guidelines,
issued,

administered
or
enforced
by
any
governmental
agency
(collectively,
the
"Money
Laundering
Laws")
and
no
action,
suit
or
proceeding
by
or
before
any
court
or
Governmental
Authority
or
any
arbitrator
involving
Borrower,
Holdings
or
any
of
its
Affiliates
with
respect
to
the
Money
Laundering
Laws
is
pending
or,
to
the
knowledge

of
Borrower
or
Holdings,
threatened.

(iv) Neither

Borrower,
Holdings,
their
directors,
officers,
nor,
to
the
actual
knowledge
of
Borrower
or
Holdings,
any
agents,
Affiliates
or
representatives
has
taken
or
will
take
any
action
in
furtherance
of
an
offer,
payment,
promise
to
pay,
or
authorization
or
approval
of
the
payment
or

giving
of
money,
property,
gifts
or
anything
else
of
value,
directly
or
indirectly,
to
any
person
while
knowing
that
all
or
some
portion
of
the
money
or
value
will
be
offered,
given
or
promised
to
anyone
to
improperly
influence
official
action,
to
obtain
or
retain
business
or
otherwise
to
secure

any
improper
advantage
in
each
case
in
violation
of
any
applicable
law
(including
the
United
States
Foreign
Corrupt
Practices
Act
of
1977,
the
UK
Bribery
Act
2010
and
other
similar
applicable
legislation
in
other
jurisdictions).

(v)Borrower

and,
to
the
actual
knowledge
of
Borrower
or
Holdings,
their
Affiliates
have
conducted

their
businesses
in
compliance
with
applicable
anti-
corruption
laws
(including
the
United
States
Foreign
Corrupt
Practices
Act
of
1977,
the
UK
Bribery
Act
2010
and
other
similar
applicable
legislation
in
other
jurisdictions)
and
have
instituted
and
maintained,
and
will
continue
to
maintain,
policies
and
procedures
reasonably
designed
to
promote
and

achieve
compliance
with
such
laws
and
with
the
representations
and
warranties
contained
herein.

(vi) Borrower

will
not
directly
or
indirectly
use
the
proceeds
of
the
Advances
or
lend,
contribute
or
otherwise
make
available
such
proceeds
to
any
Subsidiary,
Affiliate,
Joint
Venture
partner
or
other
Person
for
the
purpose
of
financing

or
facilitating
any
activity
that
would
violate
applicable
anti-
corruption
laws,
rules,
or
regulations

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■

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

(cc)

Transaction
with

Affiliates.
Schedule
5.01(cc)
sets
forth
any
and
all
agreements,
transactions
or
series
of
related
transactions
among,
on
one
hand,
Borrower,
and
on
the
other
hand,
one
or
more
Affiliates
of
Borrower.

(dd)

Existing
Debt.
All
Debt
of
Borrower
and
Holdings
incurred
as
of
the
Closing
Date
and
as
of

the
Funding
Date
is
listed
on
Schedule
6.02(b)
and
such
Debt
is
permitted
pursuant
to
Section
6.02(b).

(ee)

No
Default.
No
Default
or
Event
of
Default
has
occurred
and
is
continuing.

(ff)

Status
of
RDU
Facility.
As
of
the
Closing
Date
and
the
Funding
Date,
the
conversion
of
the

RDU
Facility
to
enable
the
processing
of
a
mix
of
soybean
oil,
tallow,
distillers
corn
oil
and
used
cooking
oil,
producing
renewable
diesel
and
naphtha
has
been
completed.
As
of
the
Closing
Date
and
the
Funding
Date,
the
RDU
Facility
is
capable
of
being
operated
in
accordance
with
Prudent
Industry

Practices
at
a
nameplate
capacity
of
12,000
barrels
per
stream
day
and
fresh
feed
capacity
of
11,000
barrels
per
stream
day
based
on
100%
soybean
oil.
No
Casualty
Event
has
occurred
with
respect
to
a
Stonebriar
Financed
Equipment.

(gg)

No
Material
Adverse
Effect.
Since
the
Closing
Date,
no
event,

circumstance
or
change
has
occurred
and
is
continuing
to
occur
that
has
caused
or
evidences,
either
in
any
case
or
in
the
aggregate,
a
Material
Adverse
Effect.

(hh)

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

ARTICLE
VI
COVENANTS

SECTION

6.01 Affirmative
Covenants.
Borrower,
and
where
specified,
Holdings,
covenants
and
agrees
as
follows:

(a)

Compliance
with
Laws,
Etc.
Each
of
Borrower
and
Holdings
will
(i)
comply
with
all
material
applicable
laws,
rules,
regulations
and
orders
of
any
Governmental
Authority,
such
compliance
to
include
compliance
with
all
applicable
Environmental
Laws

(including
the
Renewable
Fuel
Standard
of
the
Clean
Air
Act,
administered
by
the
U.S.
Environmental
Protection
Agency,
and
the
Low
Carbon
Fuel
Standard,
administered
by
the
California
Air
Resources
Board),
ERISA,
and
any
Anti-
Money
Laundering
Laws
in
all
material
respects
and
(ii)
maintain
and
enforce
policies
and
procedures
with

respect
to
itself
and
its
Subsidiaries
designed
to
ensure
compliance
in
all
material
respects
with
applicable
Sanctions,
anti-
corruption
laws
and
Anti-
Money
Laundering
Laws.

(b)

Taxes.
Each
of
Borrower
and
Holdings
will:

(i) File

on
a
timely
basis
(subject
to
any
validly
filed
extensions)
all
federal,
state,
provincial,
local,

foreign
and
other
tax
returns
and
reports
required
to
be

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■

filed,
and
shall
duly
and
punctually
pay
all
federal,
provincial,
state,
local,
foreign
and
other
taxes,
assessments,
fees
and
other
governmental
charges
levied
or
imposed
upon
them
or
their
properties,
income

or
assets
otherwise
due
and
payable,
as
they
become
due
and
payable,
except
those
(i) which
are
being
contested
in
good
faith
by
appropriate
proceedings
for
which
adequate
reserves
in
conformity
with
GAAP
have
been
provided
therefor
or
(ii) with
respect
to
which
the
failure
to
make
such
filing
or
payment
could

not,
individually
or
in
the
aggregate,
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(ii) *Withhold*

from
each
payment
made
to
any
of
its
past
or
present
employees,
officers,
directors,
partners,
and
to
any
non-
resident
of
the
country
in
which
it
is
resident,
the
amount
of
all
Taxes

and
other
deductions
required
to
be
withheld
and
pay
the
amount
withheld
to
the
proper
tax
or
other
receiving
officers
within
the
time
required
under
any
applicable
law,
regulation,
order,
decree
or
directive
of
any
relevant
jurisdiction
in
which
Borrower
is
located
and
doing
business.

(c)

Hazardous
Materials
Activities.

Etc.
Each
of
Borrower
and
Holdings
will,
and
will
cause
Calumet
to,
promptly
take
any
and
all
actions
necessary
to
(i) cure
any
material
violation
of
applicable
Environmental
Laws
by
Borrower,
Holdings
and,
to
the
extent
affecting
the
RDU
Facility,
Calumet,
(ii) make
an
appropriate
response
to
any
material
Environmental
Action
against

Borrower,
Holdings,
with
respect
to
the
RDU
Facility
or,
to
the
extent
affecting
the
RDU
Facility,
Calumet,
and
discharge
any
material
obligations
it
may
have
to
any
Person
thereunder
and
(iii) respond
to
any
material
Release
of
Hazardous
Materials
by
Borrower
or,
to
the
extent
relating
to
the
RDU
Facility,
Calumet,

to
the
extent
required
by
applicable
Environmental
Laws.

(d)

Maintenance
of
Insurance.

(i)Borrower

shall
maintain
(through
either
an
individual
policy
or
as
part
of
a
group
policy
maintained
by
Borrower
and
so
long
as
Borrower
are
included
as
additional
"named"
insureds
on
all
policies,
as
applicable),
insurance
in
such

amounts
and
against
such
losses
as
are
customary
for
companies
of
a
similar
size
operating
in
the
same
or
similar
businesses
covering
their
operations
and
exposures
and
in
accordance
in
all
material
respects
with
their
applicable
Material
Contracts,
by
financially
sound
and
responsible
insurers
or
reinsurers
which
have
an
A.M.

Best
policyholders'
rating
of
not
less
than
A-,
a
financial
size
rating
of
IX
or
better,
or
an
S&P
rating
of
not
less
than
A,
or,
if
the
relevant
insurance
is
not
available
from
such
insurers,
such
other
insurers
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required

Lenders)
may
approve
in
writing,
acting
reasonably,
and
which,
in
the
case
of
any
insurance
on
any
Property
with
respect
to
which
a
mortgage
has
been
granted
pursuant
to
the
terms
of
any
Security
Documents,
are
licensed
to
do
business
in
the
jurisdictions
where
the
applicable
Property
is
located.

(ii) Except

to
the
extent
that
such
insurance
relates
to
Inventory
Financing
Collateral,
all
such
insurance
shall
(A)
provide
that
no
cancellation,
material
reduction
in
amount
or
material
change
in
coverage
thereof
shall
be
effective
until
at
least
30
days
after
receipt
by
the
Collateral
Agent
of
written
notice
thereof
(Borrower

shall
deliver
a
copy
of
the
policy
(and
to
the
extent
any
such
policy
is
cancelled
or
renewed,
a

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-

renewal
or
replacement
policy),
insurance
certificate
with
respect
thereto
or
other
evidence
thereof
to
the
Administrative
Agent
and
Collateral
Agent)
and
(B)

name
the
Collateral
Agent
as
loss
payee
(in
the
case
of
property
insurance)
or
additional
insured
(in
the
case
of
liability
insurance)
on
behalf
of
the
Secured
Parties
(it
being
understood
that,
absent
an
Event
of
Default,
any
proceeds
of
any
such
property
insurance
shall
be
delivered
by
the
insurer(s)

to
Borrower
and
applied
in
accordance
with
this
Agreement),
as
applicable.

(iii) If

any
portion
of
any
Mortgaged
Property
is
located
in
an
area
identified
by
the
Federal
Emergency
Management
Agency
as
an
area
having
special
flood
hazards
and
in
which
flood
insurance
has
been
made
available
under
the
National

*Flood
Insurance
Act
of
1968
(or
any
amendment
or
successor
act
thereto),
then
Borrower
shall
maintain,
or
cause
to
be
maintained,
with
a
financially
sound
and
reputable
insurer,
flood
insurance
in
an
amount
sufficient
to
comply
with
all
applicable
rules
and
regulations
promulgated
pursuant
to
such
Act.*

(e)

Preservation

of
Corporate
Existence.
Etc.
(i)
Each
of
Borrower
and
Holdings
will
preserve
and
keep
in
full
force
and
effect its
existence
and
(ii) each
of
Borrower
and
Holdings
will
preserve
and
keep
in
full
force
and
effect
all
rights
and
franchises,
licenses
and
permits
material
to
its
business,
provided
that Borrower
or
Holdings

may,
at
Borrower'
expense,
change
its
name
upon 30
Business
Days'
prior
written
notice
to
the
Administrative
Agent
(or
such
shorter
period
of
time
acceptable
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders))
and
timely
delivery
to
the
Administrative
Agent
of
all
additional
financing
statements
(executed

if
necessary
for
any
particular
filing
jurisdiction)
and
other
instruments
and
documents
requested
by
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
to
maintain
the
validity,
perfection
and
priority
of
the
security
interests
created
under
the
Security
Documents.

(f)

Visitation
Rights:
Lender
Calls.
At
any

reasonable
time
and
from
time
to
time
upon
reasonable
prior
notice,
each
of
Borrower
and
Holdings
will
permit
any
of
the
Agents
and
the
Independent
Engineer,
or
any
agents
or
representatives
designated
by
the
Lenders,
to
examine
and
make
copies
of
and
abstracts
from
the
records
and
books
of
account

of,
and
visit
the
properties
of,
any
of
Borrower
and
Holdings
and
to
discuss
the
affairs,
finances
and
accounts
of
any
of
Borrower
and
Holdings
with
any
of
their
officers
or
directors
and
with
their
independent
certified
public
accountants;
provided
that,
so
long
as
no
Event
of
Default
shall
have

occurred
and
be
continuing,
any
such
visit
in
excess
of
one
such
visit
in
any
Fiscal
Quarter
shall
be
at
the
expense
of
the
Administrative
Agent
or
such
agent
or
representative
designated
by
the
Lenders.
Borrower
shall
arrange
to
have
a
telephonic
conference
call
with
the
Lenders
not
less
than

once
during
each
Fiscal
Quarter,
which
shall
be
coordinated
with
the
Administrative
Agent
during
normal
business
hours
upon
reasonable
prior
notice
to
the
Lenders,
to
discuss
the
status
of
the
RDU
Facility
and
the
affairs,
finances
and
accounts
of
Borrower
and
Holdings.

(g)

Keeping
of
Books.
Each
of
Borrower

and
Holdings
will
keep
proper
books
of
record
and
account,
in
which
full,
true
and
correct
entries
shall
be
made
of
all
financial
transactions
and
the
assets
and
business
of
Borrower
and
Holdings
in
accordance
with
GAAP
in
effect
from
time
to
time
and
otherwise
in
compliance
in
all
material

respects
with
the
regulations
of
any
Governmental
Authority
having
jurisdiction
thereof.

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(h)

Obtain
and
Maintain
Governmental
Authorizations.
Each
of
Borrower
and
Holdings
will
obtain,
maintain
in
full
force
and
effect,
and
meet
all
requirements
in
respect
of
any
Governmental
Authorizations

necessary
for
the
operation
of
the
RDU
Facility
and
in
the
conduct
of
its
business
and
operations
of
Borrower,
Holdings
and
the
transactions
contemplated
hereby,
except
in
each
case
where
failure
to
do
so
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(i)

Maintenance
of
Properties.

Etc.
Each
of
Borrower
and
Holdings
will
(i) maintain
and
preserve
in
good
repair,
working
order
and
condition
(ordinary
wear
and
tear,
casualty
and
condemnation
excepted)
its
Properties
in
accordance
with
Prudent
Industry
Practice,
Contractual
Obligations
binding
on
it,
and
applicable
laws,
(ii) make
periodic
overhauls
and
all
needed
or
appropriate
repairs,

renewals,
replacements,
additions,
betterments,
Capital
Expenditures
and
improvements
which
are
necessary
for
the
Property
that
it
owns
or
operates
to
satisfy
the
requirements
of
applicable
law,
Governmental
Authorizations
and
Contractual
Obligations
binding
on
it,
and
(iii) otherwise
ensure
its
operations
and
the
operation
of
its
Properties
are
in
a
manner
consistent

with
the
Material
Contracts
binding
on
it
and
Prudent
Industry
Practices.

(j)

Covenant
to
Give
Security.
Further
Assurances.

(i)Borrower

shall
use
commercially
reasonable
efforts
to
obtain
the
consent
of
BNSF
and
Calumet
to
mortgage
the
BNSF
Sublease
Property
(the
"BNSF
Sublease
Consent")
within
sixty
(60)
days
following
the

Stonebriar
Escrow
Release
Date
(or
such
later
date
as
agreed
to
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
in
writing
(including
via
email)).

(ii) Within

fifteen
(15)
Business
Days
following
each
of
(A)
receipt
of
the
BNSF
Sublease
Consent,
(B)
release
of
any
Stonebriar

Escrowed
Property
following
the
Stonebriar
Escrow
Release
Date,
(C)
release
of
any
other
Stonebriar
Property
or
Stonebriar
Financed
Equipment
from
the
security
interests
granted
under
the
Stonebriar
Financing
Documents,
and
(D)
acquisition
of
any
Property
by
the
Borrower
(such
Property
referenced
in
(A)
to
(D),
the
"Additional
Property."),
the
Borrower

shall,
at
its
expense,
take
the
following
actions:

(1)duly

execute
and
deliver
to
the
Collateral
Agent,
and
record
or
file
if
applicable,
such
additional
mortgages,
deeds
of
trust,
deeds
to
secure
debt,
trust
deeds,
leasehold
mortgages,
leasehold
deeds
of
trust,
leasehold
deeds
to
secure
debt,
leasehold
trust
deeds,
Uniform

Commercial
Code
financing
statements,
pledges,
assignments,
security
agreement
supplements
and
other
security
agreements
as
specified
by,
and
in
form
and
substance
satisfactory
to,
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
and
the
Collateral
Agent,
to
secure
payment
of
all
Secured
Obligations
and
create
valid
first

(subject
to
Permitted
Liens)
and
subsisting
Liens
on
all
such
Additional
Properties
in
favor
of
the
Collateral
Agent
for
the
benefit
of
the
Secured
Parties
and
any
memoranda
of
leases,
any
landlord
consents,
estoppels
and
consent
agreements,
estoppel
certificates,
and
such
other
consents,
agreements
and

confirmations
of
lessors
and
third
parties
as
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
or
the
Collateral
Agent
may
reasonably
deem
necessary
in
order
to
create
valid
first
(subject
to
Permitted
Liens)
and
subsisting
Liens
on
all
such
Additional
Properties;

(2) deliver

to
the
Collateral
Agent,
a
signed
copy
of
opinions,
addressed
to
the
Administrative
Agent
and
the
other
Lender
Parties,
of
each
of
New
York
counsel
and
Montana
counsel
for
the
Borrower
reasonably
acceptable
to
the
Collateral
Agent
(it
being
acknowledged
by
the
parties
that
Norton
Rose
Fulbright
LLP
and

Browning,
Kaleczyc,
Berry
&
Hoven,
P.C.
shall
be
deemed
to
be
acceptable)
as
to
(i)
such
mortgages,
deeds
of
trust,
deeds
to
secure
debt,
trust
deeds,
leasehold
mortgages,
leasehold
deeds
of
trust,
leasehold
deeds
to
secure
debt,
leasehold
trust
deeds,
pledges,
assignments,
security
agreement
supplements
and
security
agreements
being
legal,

valid
and
binding
obligations
of
the
Borrower
thereto
enforceable
in
accordance
with
their
terms,
(ii)
such
recordings,
filings,
notices,
endorsements
and
other
actions
being
sufficient
to
create
valid
perfected
Liens
on
such
Additional
Properties,
(iii)
such
corporate
formalities
matters
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required

Lenders)
or
the
Collateral
Agent
may
reasonably
request,
and
(iv)
such
other
matters
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
or
the
Collateral
Agent
may
reasonably
request;

(3)

(i)
following
the
receipt
of
the
BNSF
Sublease
Consent,
deliver
to
the
Administrative
Agent
a
mortgagee's

title
insurance
policy
or
signed
commitment
to
issue
such
policy
in
favor
of
the
Collateral
Agent,
as
mortgagee,
and
issued
by
the
Title
Insurance
Company
in
a
form
satisfactory
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders),
insuring
that
the
mortgage
delivered
pursuant
to
Section

6.01(j).
(ii).
(1).
herein
with
respect
to
the
BNSF
Sublease
Property
constitutes
a
valid
first
priority
perfected
Lien
on
the
BNSF
Sublease
Property
and
fixtures
constituting
real
estate
described
therein,
free
and
clear
of
all
Liens
other
than
Permitted
Liens,
and
which
shall
also
include
endorsements
that
are
reasonably
acceptable

to
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders),
in
each
case
to
the
extent
available
in
the
applicable
jurisdiction
at
commercially
reasonable
rates
(it
being
agreed
that
the
Administrative
Agent
will
accept
a
zoning
report
or
a
letter
from
the
applicable
municipality
if
obtainable
in
lieu

of
a
zoning
endorsement
if
a
zoning
endorsement
is
not
available
at
commercially
reasonable
rates
or
if
such
jurisdiction
is
not
subject
to
local
zoning
regulations);
or
(ii)
following
the
occurrence
of
the
events
set
forth
in
Section
6.01(j).
(ii).
(B).
or
(C).
above,
deliver
to
the
Administrative
Agent
and

the
Collateral
Agent
with
respect
to
each
parcel
of
real
property
owned,
held
or
leased
by
the
Borrower
constituting
all
or
a
portion
of
the
Additional
Properties,
title
insurance
policies,
land
surveys
and
engineering,
soils
and
other
reports,
zoning
confirmations
and
reports
and
environmental

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assessment
reports,
each
in
scope,
form
and
substance
satisfactory
to
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders);

(4) deliver

evidence
of
the
payment
of
(or
satisfactory
arrangements
for
the
payment
of)
all
title
policy
premiums,
search
and
examination
charges
and
related
charges,
mortgage
recording
taxes,

fees,
costs
and
expenses
of
filing
as
may
be
necessary
or,
in
the
opinion
of
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders),
desirable
to
create
a
valid,
first
priority
perfected
Lien
against
the
Additional
Property,
subject
only
to
Permitted
Liens;

(5) deliver

to
the
Administrative

Agent
a
certificate
from
a
Responsible
Officer
of
the
Borrower
acknowledging,
agreeing
and
certifying
that
the
representations
and
warranties
of
each
of
the
Borrower
set
forth
in
the
Loan
Documents
are
true
and
correct
in
all
material
respects
(except
where
already
qualified
by
materiality
or
Material
Adverse
Effect,
in
which

case,
such
representations
and
warranties
shall
be
true
and
correct
in
all
respects)
on
and
as
of
the
date
on
which
the
Additional
Property
is
mortgaged
(unless
stated
to
relate
solely
to
an
earlier
date,
in
which
case,
as
of
such
earlier
date);

(6) deliver

to
the
Administrative
Agent
a

certificate
that
is
duly
executed
and
delivered
by
Borrower's
Secretary
or
Assistant
Secretary,
managing
member
or
general
partner
as
applicable,
as
to
(X)
the
full
force
and
validity
of
each
Organizational
Document
of
the
Borrower
and
attaching
copies
thereof;
(Y)
resolutions
or
authorizations
of
the
board
of
managers,
members
or

directors,
as
applicable,
of
Borrower
approving
the
agreements
entered
into
in
accordance
with
this
Section
6.01(j).
(ii).
and
of
all
documents
evidencing
other
necessary
corporate
or
limited
liability
company
action,
as
applicable,
of
Borrower
in
connection
with
the
foregoing;
and
(Z)
the
names
and
true
signatures
of
the
officers
or

other
authorized
representatives
of
such
Person
authorized
to
sign
the
documents
to
be
delivered
pursuant
to
Section
6.01(j).
(ii);
and

(7) deliver

to
the
Administrative
Agent
supplements
to
the
Schedules
attached
to
this
Agreement,
in
form
and
substance
satisfactory
to
the
Administrative
Agent
(acting
at
the
direction
of
the
Required

Lenders),
as
may
be
necessary
in
connection
with
the
actions
taken
pursuant
to
this
Section
6.01(j).
(ii).

(iii) Promptly

upon
request
by
any
Agent,
or
any
Lender
through
the
Administrative
Agent,
each
of
Borrower
and
Holdings
will
(i) correct
any
material
defect
or
error
that
may
be
discovered
in
any
Security

Document
or
in
the
execution,
acknowledgment,
filing
or
recordation
thereof,
and
(ii) execute,
acknowledge,
deliver,
record,
re-
record,
file,
re-
file,
register
and
re-
register
any
and
all
such
further
acts,
deeds,
conveyances,
pledge
agreements,
mortgages,
deeds
of
trust,
trust
deeds,
assignments,
financing
statements
and
continuations
thereof,
termination
statements,
notices
of

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assignment,
transfers,
certificates,
assurances
and
other
instruments
as
any
Agent,
or
any
Lender
through
the
Administrative
Agent,
may
reasonably
require
from
time
to
time
in
order
to
(A) carry
out
more
effectively
the
purposes
of
the
Security
Documents,
(B) to
the
fullest
extent

permitted
by
applicable
law,
subject
any
of
its
Property
(other
than
the
Excluded
Property)
to
the
Liens
now
or
hereafter
intended
to
be
covered
by
any
of
the
Security
Documents,
(C) perfect
and
maintain
the
validity,
effectiveness
and
priority
of
any
of
the
Security
Documents
and
any
of
the
Liens
intended

to
be
created
thereunder
and
(D) assure,
convey,
grant,
assign,
transfer,
preserve,
protect
and
confirm
more
effectively
unto
the
Secured
Parties
the
rights
granted
or
now
or
hereafter
intended
to
be
granted
to
the
Secured
Parties
under
any
Security
Document
to
which
Borrower
or
Holdings
is
or
is
to
be

a
party.

(iv) Borrower

(x)
will
cooperate
with
the
Title
Insurance
Company
to
satisfy
any
requirements
necessary
to
remove
the
mechanic's
lien
exceptions
and
any
statutory
notices
of
commencement
(or
other
similar
statutory
notices
filed
by
any
materialmen,
repairmen,
construction
contractors
or
other
like
Persons)
from
the
Title
Policy
(the

"Mechanic's
Lien
Exceptions")
promptly
following
completion
of
the
Ongoing
Work
and
expiration
of
the
statutory
lien
period
with
respect
to
such
Ongoing
Work
and
(y)
until
the
Mechanic's
Lien
Exceptions
have
been
removed
from
the
Title
Policy,
promptly
following
request
from
Administrative
Agent,
provide
updates
as
to
the
status
and

resolution
of
any
disputed
claims
with
respect
to
the
Ongoing
Work.

|

(k)

Accounts.

(i)Borrower

shall,
and
shall
cause,
all
Project
Revenue
for
the
sale
of
product
or
otherwise
to
be
deposited
into
the
Working
Capital
Collections
Account
and,
subject
to
the
Working
Capital
Financing
Documents
and
in
accordance

with
the
Working
Capital
Collections
Standing
Instruction,
swept
daily
to
the
Revenue
Account
(either
directly
or
through
the
Working
Capital
Transfer
Account
if
necessary)
and
shall
notify
the
counterparties
to
each
material
Contractual
Obligation
to
make
all
payments
under
such
Contractual
Obligations
directly
to
the
Working
Capital
Collections
Account.

(ii)Borrower

shall
cause
all
Asset
Sale
Proceeds,
Insurance
Proceeds,
Eminent
Domain
Proceeds
and
Contract
Termination
Proceeds
to
be
deposited
in
accordance
with
the
CTA.

(iii)Borrower

shall,
and
shall
cause,
all
funds
deposited
in
the
Trust
Accounts
to
be
applied
in
accordance
with
the
terms
of
the
CTA.

(iv) Borrower

shall
not
open
or
maintain
any
Deposit
Accounts
or
Securities
Accounts
other
than:
(A)
the
Working
Capital
Collections
Account,
(B)
the
Working
Capital
Transfer
Account,
(C)
the
Working
Capital
Operating
Account,
(D)
the
bank
accounts
expressly
permitted
and
contemplated
pursuant
to
the
CTA,
and
(E)
other
Deposit
Accounts
which

contain
Cash
less
than
or
equal
to
\$250,000,
individually,
or
\$500,000
in
the
aggregate
for
all
such
Deposit
Accounts
at
any
one
time.

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(l)
Separateness.
Borrower
and
Holdings
shall:

(i) maintain

Deposit
Accounts
and
Securities
Accounts
separate
from
those
of
any

Affiliate
with
commercial
banking
institutions
and
will
not
commingle
their
funds
with
those
of
any
Affiliate;

(ii)act

solely
in
its
name
and
through
its
duly
authorized
officers,
managers,
representatives
or
agents
in
the
conduct
of
its
businesses;

(iii)conduct

in
all
material
respects
its
business
solely
in
its
own
name,

in
a
manner
not
misleading
to
other
Persons
as
to
its
identity
(without
limiting
the
generality
of
the
foregoing,
all
oral
and
written
communications
(if
any),
including
invoices,
purchase
orders,
and
contracts);

(iv) obtain
proper
authorization
from
member(s),
shareholder(s),
director(s)
and
manager(s),
as
required
by
its
limited
partnership
agreement,
limited

liability
company
agreement,
general
partnership
agreement
or
bylaws
for
all
of
its
limited
liability
company,
limited
partnership,
general
partnership
or
corporate
actions;
and

(v)comply

in
all
material
respects
with
the
terms
of
its
Organizational
Documents.

(m)

Material
Contracts
and
Specified
Debt
Documents.
Each
of
Borrower
and
Holdings
will
(i)

perform
and
observe
all
material
terms
and
provisions
of
each
Material
Contract
and
Specified
Debt
Documents
to
be
performed
or
observed
by
it,
(ii)
maintain
each
such
Material
Contract
and
Specified
Debt
Document
to
which
it
is
a
party
in
full
force
and
effect
(except
for
a
termination
that
occurs

in
accordance
with
the
terms
of
such
agreement
and
not
related
to
any
default
thereunder)
and
(iii)
enforce
each
such
Material
Contract
and
Specified
Debt
Document
in
accordance
with
its
material
terms
except,
in
the
case
of
clauses(ii).
and
(iii).
above,
where
the
failure
to
do
so,
either
individually
or

in
the
aggregate,
could
not
be
reasonably
likely
to
have
a
Material
Adverse
Effect
(after
giving
effect
to
any
replacement
or
substitute
agreements
entered
into
in
accordance
with
the
terms
of
the
Loan
Documents).

(n)

Conduct
of
Business.
Borrower
shall,
and
shall
cause
Calumet
to,
operate,
maintain
and
use

the
RDU
Facility
and
conduct
each
such
Person's
business
in
all
material
respects
in
accordance
with
Prudent
Industry
Practices.

(o)

Preparation
of
Environmental
Reports.
After
receiving
notice
of
any
Environmental
Action
against
or
of
any
non-
compliance
by
Borrower,
Holdings,
and
to
the
extent
affecting
the
RDU
Facility,
Calumet,

in
each
case,
with
any
Environmental
Law
or
Governmental
Authorization
or
the
release
of
any
Hazardous
Material
that
could
reasonably
be
expected
to
result
in
a
material
liability
to,
or
criminal
sanctions
against,
Borrower,
Holdings,
and
to
the
extent
affecting
the
RDU
Facility,
Calumet,
or
any
Agent
or
Lender
or

in
a
material
operational
disruption
of
the
RDU
Facility,
at
the
request
of
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
or
the
Collateral
Agent
from
time
to
time,
provide
to
the
Agents
and
the
Lenders
within
60
days
after
such
request,
at
the
expense
of
Borrower,

an
environmental
site
assessment
report
and/or
a
compliance
audit
report
addressing
the
subject
matter
of
such
notice
and
any
other
matter
reasonably
requested
to
be
addressed
or
audited,
prepared
by
an
environmental
consulting

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■

firm
acceptable
to
the
Administrative
Agent,
including
a

discussion
of
the
requested
matters
and
the
estimated
cost
of
any
compliance,
removal
or
remedial
action
in
connection
with
such
requested
matters;
without
limiting
the
generality
of
the
foregoing,
if
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
determines
at
any
time
that
a
material
risk

exists
that
any
such
reports
will
not
be
provided
within
the
time
referred
to
above,
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
may
retain
an
environmental
consulting
firm
to
prepare
such
report
at
the
expense
of
Borrower,
and
Borrower
and
Holdings
hereby
grants
the
Lenders,
such

firm
and
any
agents
or
representatives
thereof
an
irrevocable
non-
exclusive
license,
subject
to
the
rights
of
tenants,
to
enter
onto
such
respective
Properties
to
undertake
such
an
assessment.

(p)

MEN
Covenant.
Notwithstanding
anything
to
the
contrary
contained
herein
or
elsewhere,
in
the
event
that
Borrower
has
entered
into

or
shall
enter
into
or
amend
any
documentation
in
respect
of
any
Parity
Lien
Debt
with
any
other
lender,
bond
trustee
or
credit
provider
(a
"Third
Party
Agreement")
and
such
Third
Party
Agreement
contains
any
covenant
or
event
of
default
for
which
there
is
no
corresponding
covenant
or
event
of

default,
as
applicable,
in
this
Agreement
at
the
time
such
covenant
or
event
of
default,
as
applicable,
becomes
effective
(each
an
"Additional
Covenant"),
or
contains
a
covenant
or
an
event
of
default
that
corresponds
to
a
covenant
or
event
of
default
in
this
Agreement
and
such
covenant
or
event
of

default
is
more
restrictive
than
the
corresponding
covenant
or
event
of
default
in
this
Agreement
(each,
a
"More
Restrictive
Covenant"
and
together
with
each
Additional
Covenant,
each,
an
"MFN
Covenant"),
then
(a)
Borrower
shall
promptly
notify
the
Administrative
Agent
in
writing
of
the
effectiveness
of
such
MFN
Covenant
and
(b)

in
the
sole
discretion
of
the
Required
Lenders,
this
Agreement
will
automatically
be
deemed
to
be
modified
to
reflect
such
MFN
Covenant
(whether
through
amendment
of
an
existing
covenant
or
event
of
default
contained
this
Agreement
(including,
if
applicable,
related
definitions)
or
the
inclusion
of
an
additional
covenant
or
event

of
default
(including,
if
applicable,
related
definitions).
Promptly
upon
request
by
the
Administrative
Agent,
the
other
party
shall
execute
and
take
any
and
all
acts,
amendments,
supplements,
modifications
and
assurances
and
other
instruments
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
may
reasonably
require
from
time

to
time
in
order
to
document
any
such
modification
and
otherwise
carry
out
the
intent
and
purposes
of
this
paragraph.

(q)

Go-
to-
Market.
Borrower
intends
to
pay
in
full
and
discharge
all
liabilities
and/or
Debt
under,
and
to
terminate,
the
Macquarie
Supply
and
Offtake
Agreements
on
or
about

September
30,
2023
and,
notwithstanding
anything
to
the
contrary
contained
herein,
such
payment,
discharge
and
termination
shall
be
permitted
hereunder.
In
connection
therewith,
Borrower
intends
to
enter
into
a
Replacement
Inventory
Financing
Facility
in
accordance
with
the
terms
hereof.
To
the
extent
the
Borrower
is
not
able
to
enter
into

definitive
documentation
with
respect
thereto
within
60
days
following
the
date
the
Macquarie
Supply
and
Offtake
Agreements
are
terminated
(unless
the
Borrower
is
diligently
pursuing
in
good
faith
such
Replacement
Inventory
Financing
Facility
as
reasonably
determined
by
the
Required
Lenders),
then
at
the
request
of
Required
Lenders,
Borrower
shall
enter

into
an
alternate
Replacement
Inventory
Financing
Facility
on
reasonable
terms
that
are
customary
for
facilities
of
this
nature
as
reasonably
determined
by
the
Required
Lenders.

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■

SECTION

6.02 Negative
Covenants.
Borrower,
and
where
specified,
Holdings,
covenants
and
agrees
as
follows:

(a)

Liens.

Etc.
Borrower
will
not
create,
incur,
assume
or
suffer
to
exist
any
Lien
on
or
with
respect
to
any
of
its
Properties
whether
now
owned
or
hereafter
acquired,
except
Permitted
Liens.

(b)

Debt.
Borrower
will
not
create,
incur,
assume
or
suffer
to
exist
any
Debt,
except
(without
duplication):

(i) Debt
of
Borrower
under
the
Loan
Documents;

(ii) Debt
of
Borrower
under
the
Working
Capital
Financing
Documents;
provided,
that
the
sum
of
commitments
available
to
be
drawn
together
with
loans
and
advances
made
under
such
Working
Capital
Financing
Documents
shall
not
exceed
\$90,000,000
at
any
time;
and

(iii) Debt
of
Borrower

under
the
Initial
Bonds
issued
pursuant
to
the
Muni
Bond
Financing
and
the
Muni
Bond
Loan
Agreement;
provided,
that,
the
following
conditions
shall
be
met:

(A)the

initial
stated
principal
amount
of
the
Initial
Bonds
and
the
loans
under
the
Muni
Bond
Loan
Agreement
shall
be
no
greater
than
\$250,000,000;

(B)the

maturity
date,
mandatory
tender
date,
or
any
other
analogous
term
requiring
redemption
of
the
Initial
Bonds
and
payoff
of
the
loans
under
the
Muni
Bond
Loan
Agreement
shall
be
no
earlier
than
the
Maturity
Date;
and

(C)any

collateral
pledged
as
security
under
the
Muni
Bond
Financing
shall
also

be
pledged
to
the
Collateral
Agent
(for
the
benefit
of
the
Secured
Parties)
on
the
Muni
Bond
Issuance
Date
and
shall
be
subject,
at
all
times,
to
a
first-
priority
perfected
Lien
in
favor
of
the
Collateral
Agent
(for
the
benefit
of
the
Secured
Parties);
and

(D)the

definitive
documentation

governing
the
Muni
Bond
Financing
shall
be
in
form
and
substance
acceptable
to
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders).

(iv) Debt

(to
the
extent
constituting
such)
of
Borrower
in
respect
of
the
Macquarie
Supply
and
Offtake
Agreements
and
any
Replacement
Inventory
Financing
Facility;
provided
that,

in
no
event
shall
the
Debt
in
respect
of
any
Replacement
Inventory
Financing
Facility
incurred
pursuant
to
this
subclause
(iv)
exceed
the
Replacement
Inventory
Financing
Facility
Cap;

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■

(v) Stonebriar
Debt;
(vi) Capitalized
Leases
in
an
aggregate
amount
not
exceeding
\$15,000,000
at
any

one
time
outstanding
in
the
aggregate
for
Borrower;
provided,
further,
that,
if
requested
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders),
Borrower
shall
use
commercially
reasonable
efforts
to
cause
the
holders
of
such
Debt
to
enter
into
a
Collateral
Access
Agreement
on
terms
satisfactory
to
the

Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders);

(vii) Debt
secured
by
Liens
permitted
by
clause (g).
of
the
definition
of
"Permitted
Liens"
in
an
aggregate
amount
not
exceeding
the
greater
of
(x)
\$15,000,000
or
(y)
five
percent
(5%)
of
trailing
twelve
month
EBITDA,
in
each
case
at

any
one
time
outstanding
in
the
aggregate
for
Borrower;
provided
that
any
such
Debt
shall
be
secured
only
by
the
Property
acquired
in
connection
with
the
incurrence
of
such
Debt;
provided,
further,
that,
if
requested
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders),
Borrower
shall
use

commercially
reasonable
efforts
to
cause
the
holders
of
such
Debt
to
enter
into
a
Collateral
Access
Agreement
on
terms
satisfactory
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders);

(viii) Debt
of
Borrower
owed
to
Holdings
or
the
Sponsor;
provided
that
such
Debt
shall
be
unsecured

and
subordinated
to
the
Obligations
of
Borrower
under
the
Loan
Documents
and
shall
be
documented
in
form
and
substance
acceptable
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders);

(ix) to
the
extent
constituting
Debt,
contingent
obligations
under
or
in
respect
of
performance
bonds,
bid
bonds,

appeal
bonds,
surety
bonds,
financial
assurances
and
completion
guarantees,
indemnification
obligations,
obligations
to
pay
insurance
premiums,
take
or
pay
obligations
and
similar
obligations
in
each
case
incurred
in
the
ordinary
course
of
business
and
not
in
connection
with
Debt
for
Borrowed
Money;

(x)to
the
extent
constituting
Debt,
Debt
arising

from
the
honoring
by
a
bank
or
other
financial
institution
of
a
check,
draft
or
similar
instrument
drawn
against
insufficient
funds
in
the
ordinary
course
of
business
or
other
cash
management
services
in
the
ordinary
course
of
business;
provided
that
such
Debt
is
extinguished
within 10
Business
Days
of
its
incurrence;

(xi)

Debt
of
Borrower
if
(A)
the
additional
collateral
securing
such
Debt
is
pledged
to
the
Collateral
Agent
(for
the
benefit
of
the
Secured
Parties)
immediately
upon
the
funding
of
such
additional
Debt
and,
which
collateral
shall
be
subject,
at
all
times,
to
a
first-
priority
perfected
Lien
in
favor

of
the
Collateral
Agent
(for
the
benefit
of
the
Secured
Parties),
(B)
such
Debt
does
not
mature
prior
to
the
Maturity
Date,
(C)
such
Debt
does
not
have
a
higher
All-
In
Yield
than
the
All-
In
Yield
of
the
Facility,
(D)
such
Debt
ranks
pari
passu
or
junior

with
the

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■

Facility
in
right
of
payment,
(E)
Borrower
remains
in
pro-
forma
compliance
(after
giving
effect
to
such
Debt)
with
the
Financial
Covenant,
(F)
such
Debt
is
only
incurred
if
no
Default
or
Event
of
Default
exists
or
would
exist

after
giving
effect
thereto,
and
(G)
one
of
the
following
additional
conditions
is
met,
as
the
case
may
be:

(1)the

aggregate
principal
amount
of
such
Debt
does
not
exceed
\$250,000,000
and
the
proceeds
of
such
Debt
is
used
solely
to
repurchase
the
Hydrocracker
Facilities
or
the
Pretreatment
Facilities;

(2) such

Debt
is
incurred
prior
to
June
30,
2025
and,
after
giving
effect
to
such
Debt,
each
of
the
Pro
Forma
Net
Leverage
Ratio
—
Historical
and
Pro
Forma
Net
Leverage
Ratio
—
Forecast
does
not
exceed
3.50
to
1.00;
provided
that,
at
least
20%
of
the
Net
Cash
Proceeds

from
such
Debt
is
applied
to
prepay
the
Advances
(including
any
accrued
interest
and
premium)
and
the
remaining
Net
Cash
Proceeds
from
such
Debt
is
used
solely
to
invest
in
additional
assets
by
Borrower;

(3)such

Debt
is
incurred
on
or
after
June
30,
2025
and
prior
to
June
30,

2026,
and
after
giving
effect
to
such
Debt,
each
of
the
Pro
Forma
Net
Leverage
Ratio
–
Historical
and
Pro
Forma
Net
Leverage
Ratio
–
Forecast
does
not
exceed
3.00
to
1.00;
provided
that,
at
least
20%
of
the
Net
Cash
Proceeds
from
such
Debt
is
applied
to
prepay
the

Advances
(including
any
accrued
interest
and
premium)
and
the
remaining
Net
Cash
Proceeds
from
such
Debt
is
used
solely
to
invest
in
additional
assets
by
Borrower.

(4)such

Debt
is
incurred
on
or
after
June
30,
2026,
and
after
giving
effect
to
such
Debt,
each
of
the
Pro
Forma
Net

Leverage
Ratio
—
Historical
and
Pro
Forma
Net
Leverage
Ratio
—
Forecast
does
not
exceed
2.50
to
1.00;
provided
that
at
least
20%
of
the
Net
Cash
Proceeds
from
such
Debt
is
applied
to
prepay
the
Advances
(including
any
accrued
interest
and
premium)
and
the
remaining
Net
Cash
Proceeds
from

such
Debt
is
used
solely
to
invest
in
additional
assets
by
Borrower;

(5)such

Debt
is
incurred
to
finance,
Refinance
or
repurchase,
as
applicable,
any
or
all
of
(A)
the
Stonebriar
Financed
Equipment
in
accordance
with
the
Stonebriar
Financing
Documents,
or
(B)
(X)
other
existing
Permitted
Debt
of
Borrower
or

(y)
general
corporate
purposes
including
the
sustainable
aviation
fuel
expansion,
provided
that,
(i)
in
the
case
of
(A),
the
repurchased
Stonebriar
Financed
Equipment
is
immediately
pledged
as
Collateral
pursuant
to
Section
6.01(j).
(ii).
to
the
Collateral
Agent
(for
the
benefit
of
Secured
Parties)
and
is
subject,
and
shall
be
subject

at
all
times,
to
a
first-
priority
perfected
Lien
in
favor
of
the
Collateral
Agent
(for
the
benefit
of
the
Secured
Parties),
and
to
the
extent
the
amount
of
the
Debt
incurred
is
greater
than
the
Stonebriar
Debt
being
repaid
in
connection
with
the
repurchase
of
Stonebriar
Financed
Equipment

■

plus
all
expenses
and
premiums
in
connection
therewith,
such
Debt
shall
also
be
subject
to
clause
(ii)
(3)
below,
(ii)
in
the
case
of
(B),
such
Debt
incurred
(1)
shall
not
mature
prior
to
the
maturity
date
of
the
Debt
being
Refinanced,

or
have
a
shorter
weighted
average
life
than
the
loans
under
the
existing
Debt
being
Refinanced,
(2)
shall
not
have
a
higher
All-
In
Yield
than
the
All-
In
Yield
of
the
existing
Debt
being
Refinanced,
(3)
shall
be
for
an
amount
that
does
not
cause
each
of
the
Pro

Forma
Net
Leverage
Ratio
-
Historical
and
Pro
Forma
Net
Leverage
Ratio
-
Forecast
to
exceed
the
applicable
ratio
set
forth
in
clauses
(xi)
(2)
through
(xi)
(4)
above
as
of
the
date
such
Debt
is
incurred,
and
(4)
shall
have
terms
and
conditions
that
are
substantially
identical
to
or

are
(taken
as
a
whole)
more
favorable
to
Borrower
than
those
applicable
to
the
existing
Debt
(taken
as
a
whole)
being
Refinanced
(except
for
covenants
or
other
provisions
applicable
only
to
periods
after
the
Maturity
Date);
or
(6)the
aggregate
principal
amount
of
such
Debt
does
not
exceed
\$100,000,000
and

the
Net
Cash
Proceeds
of
such
Debt
is
used
solely
to
finance
a
capacity
expansion;
provided,
that,
(A)
the
existing
RDU
Facility
is
performing
as
planned
in
all
material
respects
(evidenced
by
a
trailing
100
day
performance
lookback),
(B)
the
Independent
Engineer
has
delivered
a
report
that
is
in
form,

scope
and
substance
satisfactory
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders),
and
(C)
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
has
provided
prior
written
consent
to
Borrower
approving
the
incurrence
of
such
Debt.

(xii)trade

payables
incurred
in
the
ordinary

course
of
business
(but
not
for
borrowed
money)
and
(A) not
more
than 90 days
past
due
or
(B) being
contested
in
good
faith
by
appropriate
proceedings;

(xiii) to
the
extent
constituting
Debt,
guarantees,
contingent
obligations
or
letters
of
credit
issued
(including
reimbursement
obligations
in
respect
thereof)
as
credit
support
for
commodity
swaps,
options

or
futures
contracts
or
other
similar
contracts
in
each
case
permitted
under
Section
6.02(m),
(i),
and
Section
6.02(r);
and
(xiv) Debt
of
Borrower
under
Interest
Rate
Hedge
Agreements
and
Permitted
Commodity
Hedge
Agreements,
in
each
case
entered
into
in
the
ordinary
course
of
business
and
not
for
speculative
purposes.

(c)

Change
in
Nature
of
Business.
Borrower
will
not
engage
in
any
business
other
than:
(A)
the
expansion,
ownership,
operation,
management,
maintenance,
use
and
or
financing
of
the
RDU
Facility,
including
the
sustainable
aviation
fuel
expansion
contemplated
by
the
SAF
Expansion
Budget,
(B)
purchasing
of
feedstock
for
purposes
of
processing

at
the
RDU
Facility,
(C)
marketing
of
products
produced
at
the
RDU
Facility,
and
(D)
any
other
transactions
incidental
thereto
and
otherwise
permitted
hereunder
(including
the
transactions
contemplated
under
the
Material
Contracts).

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■

(d)
Fundamental
Changes;
Mergers,
Etc.
Borrower
will

not
change
its
legal
form,
liquidate
or
dissolve.
Borrower
will
not
merge
into
or
consolidate
with
any
Person
or
permit
any
Person
to
merge
into
it.

(e)

Sales.
Etc.
of
Property.
Borrower
will
not
sell,
lease,
transfer
or
otherwise
Dispose
of
any
Property,
or
grant
any
option
or
other

right
to
any
Person
to
purchase,
lease
or
otherwise
acquire
any
Property,
except:

(i) Sales

of
(and
the
granting
of
any
option
or
other
right
to
purchase
or
otherwise
acquire)
Inventory
in
the
ordinary
course
of
its
business
to
the
extent
not
prohibited
by
Section
6.02(m).
(i):

(ii) sales,

leases
or

subleases,
transfers
or
other
Dispositions
of
personal
Property
that
is
obsolete,
damaged,
worn
out
surplus
or
not
used
or
useful
in
the
business
of
Borrower
and
operation
of
the
RDU
Facility;

(iii)the
liquidation,
sale
or
use
of
Cash
and
Cash
Equivalents;

(iv)sales,
Dispositions
or
discounts
without
recourse
of
accounts

receivable
arising
in
the
ordinary
course
of
business
in
connection
with
the
compromise
or
collection
thereof;

(v)transfers
of
condemned
Property
as
a
result
of
the
exercise
of
“eminent
domain”
or
other
similar
policies
to
the
respective
Governmental
Authority
or
agency
that
has
condemned
the
same
(whether
by
deed
in

lieu
of
condemnation
or
otherwise),
and
transfers
of
Property
that
have
been
subject
to
a
casualty
to
the
respective
insurer
of
such
real
Property
as
part
of
an
insurance
settlement;

(vi)to

the
extent
constituting
Dispositions,
(A)
leases,
subleases,
licenses
or
 sublicenses
of
Property
and
(B)
easements,
rights-
of-
way

or
such
other
agreements
related
to
real
property,
in
each
case,
entered
into
in
the
ordinary
course
of
business
and
which
do
not
materially
interfere
with
the
business
of
Borrower
and
operation
of
the
RDU
Facility;

(vii) amendments
or
modifications
of
any
Contractual
Obligation
of
Borrower
and
the
related
release

of
any
credit
support
obligations
thereunder
pursuant
to
the
terms
of
such
amendment
or
modification
that
is
not
prohibited
by
Section
6.02(p);

(viii) *Dispositions*

of
Property
to
the
extent
that
such
Property
is
exchanged
for
credit
against
the
purchase
price
of
similar
replacement
Property
that
is
promptly
purchased;

(ix) *any*

swap

of
assets
in
exchange
for
services
or
other
assets
in
the
ordinary
course
of
business
of
comparable
or
greater
value
or
usefulness
to
the
business
of
Borrower;

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■

(x)the
unwinding
of
any
Interest
Rate
Hedge
Agreement
or
Commodity
Hedge
Agreement
pursuant

to
its
terms;

(xi)the
lapse
or
abandonment
in
the
ordinary
course
of
business
of
any
registrations
or
applications
for
registration
of
any
immaterial
intellectual
property
rights;
and

(xii)the
Disposition
of
Inventory
and/or
Inventory
Financing
Collateral
pursuant
to
the
terms
of
any
Inventory
Financing
Facility.

(f)

Investments.
Borrower
will

not
make
or
hold
any
Investment,
except:

(i) Investments

in
Cash
and
Cash
Equivalents;

(ii) Investments

owned
as
of
the
Closing
Date
in
Borrower
as
set
forth
on
Schedule
6.02(f);

(iii) Investments

(A) consisting
of
extensions
of
credit
in
the
nature
of
accounts
receivable
or
notes
receivable
arising
from
the
grant
of

trade
credit
in
the
ordinary
course
of
business,
(B)
received
in
satisfaction
or
partial
satisfaction
thereof
from
financially
troubled
account
debtors
and
(C) deposits,
prepayments
and
other
credits
to
suppliers
made
in
the
ordinary
course
of
business;

(iv) intercompany
loans
to
the
extent
permitted
under
Section
6.02(b).
(viii);
(v) Capital
Expenditures
with

respect
to
the
RDU
Facility
permitted
by
Section
6.02(n).
below;

(vi)loans

and
advances
to
officers,
directors
and
employees
of
Borrower
made
in
the
ordinary
course
of
business
in
an
aggregate
principal
amount
not
exceeding
\$500,000,
and
advances
of
payroll
payments
to
employees
in
the
ordinary
course
of
business;

(vii)to
the
extent
constituting
Investments,
Debt
which
is
permitted
under
Section
6.02(b);

(viii)promissory
notes
and
other
non-
cash
consideration
received
in
connection
with
Dispositions
permitted
by
Section
6.02(e);

(ix)Investments
(including
debt
obligations
and
Equity
Interests)
received
in
connection
with
the
bankruptcy
or
reorganization
of
suppliers
and
customers
or
in

settlement
of
delinquent
obligations
of,
or
other
disputes
with,
customers
and
suppliers
arising
in
the
ordinary
course
of
business
or
upon
the
foreclosure
with
respect
to
any
secured
Investment
or
other
transfer
of
title
with
respect
to
any
secured
Investment;
(x) Permitted
Investments;

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(xi)other
Investments
not
to
exceed
an
amount
equal
to
the
greater
of
(x)
\$15,000,000
and
(y)
five
percent
(5%)
of
trailing
twelve
month
EBITDA,
in
each
case
in
the
aggregate
at
the
time
of
making
any
such
Investment;
and

(xii)other
Investments
in
an
amount
equal
to
any
applicable

Surplus
Funds
so
long
as
on
the
date
of
such
Investment
(which
may
occur
no
more
frequently
than
once
per
calendar
quarter),
Borrower
certifies
to
the
Administrative
Agent
(including,
in
the
case
of
any
calculations,
a
summary
of
the
results
of
such
calculations)
not
more
than
twenty
(20)
and
not

less
than
five
(5)
Business
Days
prior
to
the
proposed
date
of
such
Investment
that
the
RP
Conditions
are
satisfied
as
of
the
date
of
such
certification.

(g)

Restricted
Payments.

(i) Borrower

will
not
declare,
order,
pay,
make
or
set
apart
or
agree
to
declare,
order,
pay,
make
or

set
apart
or
agree
to
declare,
order,
pay,
make
or
set
apart,
through
any
manner
or
means
or
through
any
other
Person,
directly
or
indirectly,
any
Restricted
Payment
other
than:
(A)
so
long
as
no
Default
or
Event
of
Default
under
Section
7.01(a)
or
Section
7.01(g)
shall
have
occurred
and

be
continuing,
Permitted
Tax
Payments
required
to
be
made
pursuant
to
the
Organizational
Documents
of
the
Borrower
and
Holdings,
and
(B)
Restricted
Payments
in
an
amount
equal
to
any
applicable
Surplus
Funds
so
long
as
on
the
date
of
such
Restricted
Payment
(which
may
occur
no
more
frequently
than
once

per
calendar
quarter),
Borrower
certifies
to
the
Administrative
Agent
(including,
in
the
case
of
any
calculations,
a
summary
of
the
results
of
such
calculations)
not
more
than
twenty
(20)
and
not
less
than
five
(5)
Business
Days
prior
to
the
proposed
date
of
such
Restricted
Payment,
that
each
of
the

following
conditions
(such
conditions,
the
“RP
Conditions”)
have
been
complied
with
as
of
the
date
of
such
certification:

(1)no

Default
or
Event
of
Default
shall
have
occurred
and
be
continuing
(before
and
after
giving
effect
to
such
Restricted
Payment);

(2)the

funds
then
on
deposit
in
or
credited
to
the

Debt
Service
Reserve
Account
are
not
less
than
the
Debt
Service
Reserve
Requirement;

(3)if

the
proposed
date
of
such
Restricted
Payment
is
prior
to
the
date
of
the
turnaround
planned
as
part
of
sustainable
aviation
fuel
expansion,
the
funds
then
on
deposit
in
or
credited
to
the
IDC
Reserve

Account
are
no
less
than
the
IDC
Reserve
Fund
Requirement;

(4)the

Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last
day
of
the
most
recently
ended
Fiscal
Quarter
(after
giving
effect
to
such
Restricted
Payment)
does
not
exceed
3.50:1.00;

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-

(5)at

least
20%
of
the
Surplus
Funds
shall
be
applied
as
prepayment
of
the
Advances
in
accordance
with
Section
2.04(b).
(iii).
prior
to
the
making
of
such
Restricted
Payment;
and

(1)the

date
of
such
Restricted
Payment
shall
be
no
earlier
than
thirty
(30)
days
and
no

later
than
forty-
five
(45)
days
after
the
last
day
of
each
Fiscal
Quarter.

(ii) Borrower

will
not
make
any
payment,
prepayment,
redemption,
purchase,
defeasance
or
otherwise
satisfy
the
principal
of,
or
premium
or
interest
on,
any
Debt
for
Borrowed
Money
(other
than
Permitted
Debt);
provided
that
no
such
payment,

prepayment,
redemption,
purchase,
defeasance
or
satisfaction
shall
be
permitted
in
respect
of
any
Permitted
Debt
that
is
unsecured
and
subordinated
in
right
of
payment
to
the
Debt
of
Borrower
under
the
Loan
Documents
or
otherwise
in
violation
of
any
subordination
terms
of
any
documentation
related
to
such
Debt;
provided
further

that
Borrower
may
(x)
pay
scheduled
principal
and
interest
accrued
under
the
Specified
Intercompany
Debt
in
accordance
with
its
terms
(as
in
effect
on
the
date
hereof)
so
long
as
no
Default
or
Event
of
Default
has
occurred
and
is
continuing
hereunder
and
(y)
prepay
any
subordinated
intercompany
Debt
so

long
as
on
the
date
of
such
prepayment
(which
may
occur
no
more
frequently
than
once
per
calendar
quarter),
Borrower
certifies
to
the
Administrative
Agent
(including,
in
the
case
of
any
calculations,
a
summary
of
the
results
of
such
calculations)
not
more
than
twenty
(20)
and
not
less
than
five

(5)
Business
Days
prior
to
the
proposed
date
of
such
payment
that
the
RP
Conditions
are
satisfied
as
of
the
date
of
such
certification.

(b)

Amendments
of
Organizational
Documents.
Borrower
and
Holdings
will
not
amend,
modify
or
waive
any
of
its
Organizational
Documents
in
any
manner
that
would
adversely

impair
the
rights
and
remedies
of
any
Agent
or
any
Secured
Party
under
any
Security
Document.

(i)

Accounting
Changes.
Borrower
and
Holdings
will
not
make
or
permit
any
change
in

(i) accounting
policies
or
reporting
practices,
except
as
required
by
GAAP,
or
(ii) Fiscal
Year,

in
each
case
unless
such
change

is
acceptable
to
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders,
provided
that
such
consent
shall
not
be
unreasonably
withheld,
conditioned
or
delayed).

(j)

No
Further
Negative
Pledges.
Borrower
will
not
enter
into
or
permit
to
exist
any
agreement
prohibiting
the
creation
or
assumption
of
any

Lien
upon
any
of
its
Properties,
whether
now
owned
or
hereafter
acquired,
except
for
(i)
(A) the
Transaction
Documents,
(B) agreements
or
documents
governing,
evidencing
and/or
securing
any
Inventory
Financing
Facility
and
any
Specified
Debt
Documents,
and
(C) other
Contractual
Obligations
in
effect
as
of
the
Funding
Date
and
set
forth
on
Schedule

6.02(j)
(or
any
replacements,
renewals
or
substitutions
thereof
to
the
extent
no
more
onerous
or
restrictive
than
the
provision
applicable
under
the
relevant
Transaction
Document,
Specified
Debt
Document
or
Contractual
Obligations
being
replaced,

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■

renewed
or
substituted),
(ii) customary
restrictions
in

Contractual
Obligations
in
respect
of
specific
Property
encumbered
to
secure
payment
of
particular
Debt
(to
the
extent
permitted
to
be
incurred
pursuant
to
the
terms
of
the
Loan
Documents)
or
to
be
sold
pursuant
to
an
executed
agreement
with
respect
to
a
permitted
Asset
Sale
and
(iii) restrictions
by
reason
of

customary
provisions
restricting
assignments,
subletting
or
other
transfers
contained
in
agreements,
leases,
licenses,
subleases
and
sublicenses
and
similar
agreements
as
contemplated
by
the
definition
of
"Excluded
Property"
(provided
that
such
restrictions
are
limited
to
the
property
or
assets
secured
by
such
Liens
or
the
property
or
assets
subject
to
such

leases,
licenses
or
similar
agreements,
as
the
case
may
be).

(k)

Sales
Leasebacks.
Other
than
with
respect
to
the
Stonebriar
Financed
Equipment,
Borrower
will
not,
directly
or
indirectly,
become
or
remain
liable
as
lessee
or
as
a
guarantor
or
other
surety,
with
respect
to
any
lease
of
any
property

(whether
real,
personal
or
mixed),
whether
now
owned
or
hereafter
acquired,
which
Borrower
(i) has
sold
or
transferred
or
is
to
sell
or
to
transfer
to
any
other
Person,
or
(ii) intends
to
use
for
substantially
the
same
purpose
as
any
other
property
which
has
been
or
is
to
be
sold
or

transferred
by
Borrower
to
any
Person
in
connection
with
such
lease.

(l)

Partnerships.
Formation
of
Subsidiaries.
Etc.

Borrower
will
not
(i) become
a
general
partner
in
any
general
or
limited
partnership
or
Joint
Venture
or
(ii) organize
any
new
Subsidiary.

(m)

Speculative
Transactions.

(i)Borrower

will
not
engage
in
any
Commodity

Hedge
Agreement
or
other
transaction
involving
commodity
swaps,
options
or
futures
contracts
or
any
similar
transactions
(including
take-
or-
pay
contracts,
long
term
fixed
price
off
take
contracts
and
other
similar
contracts
for
the
sale
of
oil
and
refined
products
on
either
a
financial
or
physical
basis),
other
than
(i)

Commodity
Hedge
Agreements
that
are
for
the
purpose
of
selling,
purchasing
or
hedging
against
fluctuations
in
the
price
of
a
commodity
to
which
Borrower
has
actual
or
reasonably
expected
exposure,
and
(ii)
non-
speculative
transactions
pursuant
to
or
in
connection
with
an
Inventory
Financing
Facility;
provided,
that,
in
each
case,

such
Commodity
Hedge
Agreements
are
entered
into:
(1)
in
the
best
interests
of,
and
on
terms
fair
and
reasonable
to,
Borrower
and
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
(2)
are
entered
into
with
counterparties
whose
unsecured
senior
debt
obligations
are
rated
at
least
Baa3
by

Moody's
and
at
least
BBB-
by
S&P,
(3)
do
not
create,
permit
or
suffer
to
exist
any
Lien
on
the
Collateral,
and
(4)
are
consistent
with
Borrower's
obligations
under
the
Material
Contracts.

(ii) Borrower

shall
not
enter
into
floating
for
fixed
rate
Interest
Rate
Hedge
Agreements
with
respect
to
a

notional
amount
exceeding
105%
of
the
reasonably
anticipated
amount
of
the
Advances
and
other
Debt
accruing
interest
on
a
floating
rate
basis
(which
anticipated
amounts
(i)
shall
be
determined
by
reference
to
the
Base
Case
Projections
and
(ii)
shall
take
into
account
any
scheduled
or
projected
repayments
or
prepayments

contemplated
thereunder).

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-

(n)

Capital
Expenditures.
Borrower
shall
not
purchase,
acquire
or
lease
any
assets
that,
if
acquired,
would
constitute
Capital
Expenditures
or
otherwise
make
Capital
Expenditures,
other
than:
(A)
Capital
Expenditures
made
in
connection
with
the
replacement,
substitution,
restoration
or

repair
of
Property
to
the
extent
financed
with
(1)
Insurance
Proceeds
or
other
Cash
paid
to
Borrower
on
account
of
the
Casualty
Event
in
respect
of
the
Property
being
replaced,
restored
or
repaired
or
(2)
Eminent
Domain
Proceeds
or
other
Cash
paid
to
Borrower
on
account
of
an
Event
of

*Eminent
Domain,
in
each
case,
in
accordance
with
the
terms
of
the
Loan
Documents,
(B)
costs
with
respect
to
Major
Maintenance
Expenses,
(C)
any
Permitted
Capital
Expenditures,
and
(D)
Capital
Expenditures
incurred
substantially
as
contemplated
by
the
SAF
Expansion
Budget.*

(o)

*Transactions
with
Affiliates.
Borrower
will
not
enter
into*

any
transaction
of
any
kind
with
any
Affiliate
of
Borrower,
whether
or
not
in
the
ordinary
course
of
business,
other
than
on
fair
and
reasonable
terms
not
less
favorable
to
Borrower
as
would
be
obtainable
by
Borrower
at
the
time
in
a
comparable
arm's
length
transaction
with
a
Person
other

than
an
Affiliate;
provided
that,
notwithstanding
the
foregoing
or
anything
else
to
the
contrary
in
any
Loan
Document,
the
following
shall
be
permitted:
(i) Restricted
Payments
made
in
accordance
with
the
terms
of
this
Agreement,
and
(ii)
transactions
described
on
Schedule
6.02(o).

(p)

Material
Contracts.

(i) Borrower

shall
not
cause,
consent

to,
or
permit,
any
amendment
to,
modification,
variance,
or
impairment
of,
or
waiver
of
timely
compliance
with,
any
terms
or
conditions
of any
Material
Contract,
except:
(A)
with
respect
to
any
Specified
Material
Contract,
any
such
amendment,
modification,
variance,
or
impairment
that
is
not
material
and
adverse
to
the
interests
of

the
Lender
Parties,
and
(B)
with
respect
to
any
Material
Contract
that
is
not
a
Specified
Material
Contract,
any
such
amendment,
modification,
variance,
or
impairment
that
is
not
materially
adverse
to
the
interests
of
the
Lenders.

(ii) Borrower

shall
not
agree
or
consent
to
any
planned
RDU
Facility
shutdown
without

the
consent
of
the
Supermajority
Lenders
except
for
routine
maintenance
in
the
ordinary
course
of
business
or
as
otherwise
required
under
applicable
law
or
by
any
Governmental
Authority.

(iii) Borrower

shall
not
cause,
consent
to,
or
permit,
any
cancellation,
assignment
or
termination
(except
for
a
termination
that
occurs
in
accordance

with
the
terms
of
such
agreement)
of
any
Material
Contract
unless
Borrower
shall
have
entered
into
(or
simultaneously
with
such
termination
shall
enter
into)
a
Replacement
Material
Contract
in
substitution
thereof
or
Borrower
shall
have
certified
in
writing
to
the
Administrative
Agent
at
least
15
Business
Days
prior
to
such

cancellation,
assignment
or
termination
could
not
reasonably
be
expected
to
be
material
and
adverse
to
the
interests
of
the
Lender
Parties,
and,
if
such
replaced
Material
Contract
is
a
Specified
Material
Contract
referenced
in
clauses
(a),
(b),
(c)
and
(e)
of
the
definition
thereof
(or
a
Replacement
Material
Contract
thereof),

shall
have
obtained
the
Required
Lenders'
written
consent
(not
to
be
unreasonably
conditioned,
withheld,
delayed
or
denied).

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■

(iv) Borrower

shall
not
enter
into,
become
a
party
to,
or
become
liable
under
(or
permit
any
counterparty
to
enter
into,
become
a
party

to
or
become
liable
under,
on
behalf
of
Borrower),
any
Additional
Material
Contract
without
prior
written
consent
of
the
Required
Lenders,
except
to
the
extent
such
entry
into
such
contract
or
agreement
could
not
reasonably
be
expected
to
be
material
and
adverse
to
the
interests
of
the
Lender
Parties;
provided,

that,
Borrower
shall
have
used
commercially
reasonable
efforts
to
obtain
and
deliver
to
the
Collateral
Agent
an
executed
consent
to
collateral
assignment
in
respect
of
such
contract
or
agreement.

(q)

Sanctions
and
FCPA,
Etc.
Borrower
shall
not
directly
or
indirectly
use
the
proceeds
of
any
Borrowing
for
any
purpose

that
would
breach
the
United
States
Foreign
Corrupt
Practices
Act
of
1977,
the
UK
Bribery
Act
2010,
or
other
similar
applicable
legislation
in
other
jurisdictions
or
directly
or
indirectly
use
the
proceeds
of
any
Borrowing,
or
lend,
contribute
or
otherwise
make
available
such
proceeds
to
any
Joint
Venture
partner
or

other
individual
or
entity,
(i)
to
fund
any
activities
of
or
business
with
any
individual
or
entity
that,
at
the
time
of
such
funding,
is
(A)
the
subject
of
Sanctions
or
(B)
in
any
Designated
Jurisdiction,
in
each
case
in
violation
of
any
Sanctions
or
(ii)
in
any
other
manner

that
will
result
in
a
violation
of
Sanctions
by
any
Person
(including
any
individual
or
entity
participating
in
the
financing
transaction
contemplated
by
this
Agreement,
whether
as
Lender,
Administrative
Agent
or
otherwise).

(r)

Contingent
Liabilities.
Borrower
shall
not
become
liable
under
any
Contractual
Obligation
as
a
surety
or
accommodation

endorser
for
or
upon
the
obligation
of
any
other
Person,
except
(a)
normal
trade
credit,
(b)
the
endorsement
of
negotiable
instruments
received
in
the
normal
course
of
its
business,
(c)
indemnities
provided
under
the
Transaction
Documents,
(d)
ordinary
course
indemnities
under
Contractual
Obligations
that
are
not
Transaction
Documents,
and
(e)

Permitted
Debt.

(s)
Amendments
to
Debt
Documents.
Borrower
shall
not
amend,
restate,
consent,
waive,
supplement,
or
otherwise
modify
any
Specified
Debt
Documents
without
the
prior
written
consent
of
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders),
except
any
such
amendment,
modification,
variance,
or
supplement
that
is

not
material
and
adverse
to
the
interests
of
the
Lender
Parties.

(t)

LCFS;
RINs.
Borrower
will
not
engage
in
any
transaction
for
the
transfer,
purchase
or
sale
of
Low
Carbon
Fuel
Standard
(LCFS)
credits
or
RINs
except
in
compliance
with
the
California
LCFS
Program
and
Renewable
Fuel
Standard

Program,
respectively.

(u)

Blenders
Tax
Credit.
Borrower
will
not,
without
notice
to
the
Administrative
Agent,
take
any
action
that
would
limit
or
prevent
its
ability
to
receive
the
Blenders
Tax
Credit
except
as
required
by
a
Change
in
Law.

(v)

Working.
Capital
Accounts.

(i)Borrower

shall
issue
and

maintain
at
all
times
a
standing
instruction
to
the
Working
Capital
Bank
instructing
it
to
automatically
transfer,
(1)
subject
to
the
Working
Capital
Financing
Documents,
all
Cash
and
Cash
Equivalents
on
deposit
in
the
Working
Capital
Collections
Account
at
the
end
of
each
Business
Day
to
the
Revenue

■

Account
either
directly
or
through
the
Working
Capital
Transfer
Account
if
necessary,
and
(2)
all
Cash
and
Cash
Equivalents
credited
into
the
Working
Capital
Operating
Account
to
the
Revenue
Account
at
the
end
of
each
Business
Day
(each
such
instruction
in
(1)

and
(2),
the
"Working
Capital
Standing
Instructions").
Borrower
shall
not,
and
shall
not
permit
any
other
Person,
to
amend
the
Working
Capital
Standing
Instructions.

(ii)Borrower

will
promptly,
and
in
any
event
within
three
(3)
Business
Days
after
obtaining
knowledge
thereof,
notify
the
Administrative
Agent
if
and
when
the
Working

Capital
Facility
Agent
delivers
an
Access
Termination
Notice
(as
such
term
is
defined
in
the
Wells
Fargo
Collections
DACA)
to
the
Working
Capital
Bank.

(w)

Liquidity.
Borrower
shall
not
permit
Liquidity
as
of
the
last
day
of
each
Fiscal
Quarter,
commencing
with
the
first
Fiscal
Quarter
after
the
Closing

Date,
to
be
less
than
\$25,000,000.

(x)

Rebate
Liability.
The
Borrower
will
not
take
any
action
or
fail
to
take
any
action
that
would
cause
the
Bonds
to
be
"arbitrage
bonds"
within
the
meaning
of
section
148
of
the
Internal
Revenue
Code.
Prior
to
each
semiannual
interest
payment
date

for
the
Bonds,
the
Borrower
will
cause
to
be
calculated
the
accrued
arbitrage
rebate
liability
under
Section
148
of
the
Internal
Revenue
Code,
if
any,
for
the
Bonds
as
of
such
date.
The
Borrower
will
take
steps
to
ensure
that,
on
each
such
semiannual
interest
payment
date,
any
earnings
released

from
the
Bond
Debt
Service
Reserve
Account
(as
defined
in
the
CTA)
will
be
transferred
first,
to
the
Rebate
Fund
(as
defined
in
the
CTA),
in
the
amount
necessary
to
cause
the
balance
in
the
Rebate
Fund
(as
defined
in
the
CTA)
to
equal
to
the
accrued
arbitrage
rebate
liability,

and
second,
to
the
Bond
Interest
Sub-
Account
(as
defined
in
the
CTA),
to
pay
interest
on
the
Bonds,
or
to
such
other
account
or
for
such
other
purpose
as
is
permitted
under
the
Muni
Bond
Financing
Documents.

SECTION

1.02 Reporting
Requirements.
Borrower
covenants
and
agrees
that
it
will
furnish

to
the
Administrative
Agent
and
the
Lenders:

(a)

Notice
of
Default
and
Material
Adverse
Effect.

As
soon
as
possible
and
in
any
event
within
three
(3)
Business
Days
after
the
occurrence
of
(i)
each
Default,
(ii)
each
Event
of
Default
or
(iii)
any
event,
development
or
occurrence
which
has

had,
or
would
reasonably
be
expected
to
have,
a
Material
Adverse
Effect
continuing
on
the
date
of
such
statement,
a
statement
of
the
Financial
Officer
of
Borrower
setting
forth
details
of
such
Default,
event,
development
or
occurrence
and
the
action
that
Borrower
has
taken
and
proposes
to
take
with

respect
thereto.

(b)

Quarterly
Financials.

As
soon
as
available,
and
in
any
event
within 60 days
in
the
case
of
each
Fiscal
Quarter
after
the
end
of
each
of
the
first
three
Fiscal
Quarters
of
each
Fiscal
Year,
the
statements
of
income,
stockholders'
equity
and
cash
flows
of
each
of
Borrower

and
Holdings
for
such
Fiscal
Quarter
and
for
the
period
from
the
beginning
of
the
then
current
Fiscal
Year
to
the
end
of
such
Fiscal
Quarter,
setting
forth
in
each
case,
in
comparative
form
the
corresponding
figures
for
the
corresponding
periods
of
the
previous
Fiscal
Year
and
the
corresponding
figures

from
the
Budget
for
the
current
Fiscal
Year,
all
in
reasonable
detail,
including
management
discussion
of
operating
performance
for
Borrower,
Holdings
and
the
RDU
Facility,
including
causes
of
any
RDU
Facility
unplanned
outage
and
any
associated
restoration

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■

plans
for
ongoing
outage,

together
with
a
certificate
of
a
Financial
Officer
of
Borrower
or
Holdings,
as
applicable.

(c)

Annual
Financial
Statements.
Commencing
with
the
Fiscal
Year
ending
on
December
31,
2023,
as
soon
as
available,
and
in
any
event
within 120 days
after
the
end
of
each
Fiscal
Year,
the
balance
sheets
of
each

of
Borrower
and
Holdings
as
at
the
end
of
such
Fiscal
Year
and
the
related
statements
of
income,
stockholders'
equity
and
cash
flows
of
the
related
statements
of
income,
stockholders'
equity
and
cash
flows
of
each
of
Borrower
and
Holdings
for
such
Fiscal
Year,
setting
forth
in
comparative
form
the

corresponding
figures
for
the
previous
Fiscal
Year
and
the
corresponding
figures
from
the
Budget
for
the
Fiscal
Year
covered
by
such
financial
statements,
in
reasonable
detail,
including
management
discussion
of
operating
performance
for
Borrower,
Holdings
and
the
RDU
Facility,
including
causes
of
any
RDU
Facility
unplanned
outage
and
any
associated

restoration
plans
for
ongoing
outage,
together
with
a
Financial
Officer
Certification
and
a
Narrative
Report
with
respect
thereto;
and
(3) with
respect
to
the
financial
statements
described
in
clauses
(1).
and
(2).
a
report
thereon
of
independent
certified
public
accountants
of
recognized
national
standing
selected
by
Borrower
or
Holdings,
as
applicable,

and
satisfactory
to
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
(which
report
shall
be
unqualified
as
to
going
concern
and
scope
of
audit
(other
than
with
respect
to,
or
resulting
from,
(i)
any
potential
inability
to
satisfy
any
financial
maintenance
covenant
for
any
period
or

(ii)
the
fact
that
the
final
maturity
date
of
any
Debt
is
less
than
one
year
after
the
date
of
such
opinion)
and
shall
state
that
such
financial
statements
fairly
present,
in
all
material
respects,
the
financial
position
of
Borrower
or
Holdings,
as
the
case
may
be,
as
at
the

dates
indicated
and
the
results
of
their
operations
and
their
cash
flows
for
the
periods
indicated
in
conformity
with
GAAP
applied
on
a
basis
consistent
with
prior
years
(except
as
otherwise
disclosed
in
such
financial
statements)
and
that
the
examination
by
such
accountants
in
connection
with
such
financial
statements
has

been
made
in
accordance
with
generally
accepted
auditing
standards).

(d)

Compliance
Certificate;
Net
Total
Leverage
Ratio.

(i) Together

with
each
delivery
of
financial
statements
of
Borrower
or
Holdings
pursuant
to
clauses (b).
and
(c),
a
duly
executed
and
completed
Compliance
Certificate.

(ii) As

promptly
as
possible
following
the
end
of
each

applicable
Fiscal
Quarter
(but
in
any
event
within
sixty
(60)
days),
a
duly
executed
and
completed
Compliance
Certificate,
(A)
as
to
the
Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last
day
of
the
most
recently
ended
Fiscal
Quarter,
and
(B)
as
to
the
aggregate
amount

of
obligations
(on
a
mark-
to-
market
basis)
under
the
Permitted
Commodity
Hedge
Agreements
as
at
the
end
of
such
Fiscal
Quarter,
in
each
case,
together
with
a
calculation
thereof
in
reasonable
detail.

(e)

Annual
Budget.

(i)As

soon
as
available
and
in
any
event
no
later
than 30
days

prior
to
the
commencement
of
any
Fiscal
Year,
an
annual
budget,
including
a
statement
of
projected
Project
Revenues,
Operating
and
Maintenance
Expenses,
Major
Maintenance

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■

Expenses,
Capital
Expenditures,
projected
debt
service
in
respect
of
the
Facility
and
Permitted
Debt
for
the
Fiscal

Year
to
which
it
relates,
in
each
case,
on
an
individual
line
item
basis
and
prepared
in
a
manner
consistent
with
the
Closing
Date
Operating
Budget
(with
respect
to
each
such
Fiscal
Year,
the
“Budget”),
which
Budget
shall
be
certified
by
a
Financial
Officer
of
Borrower
as
having
been
prepared

in
good
faith
based
upon
assumptions
believed
by
Borrower
to
be
reasonable
at
the
time
made.

(ii) Each

Budget
shall
(A)
be
prepared
in
good
faith
on
the
basis
of
all
facts
and
circumstances
then
existing
and
known
to
Borrower
and
written
assumptions
stated
therein
which
Borrower
believes
to
be

reasonable
as
to
all
factual
and
legal
matters
material
to
such
estimates,
and
reflect
Borrower'
best
estimate
of
the
future
results
of
Borrower,
(B)
except
in
the
case
of
the
Closing
Date
Operating
Budget,
be
based
on
the
same
format
and
maintained
substantially
on
the
same
basis
as,
and
provide

sufficient
detail
to
permit
a
meaningful
comparison
to,
previous
years,
(C)
include
a
pro
forma
cash
flow
projection
for
each
month
covered
by
such
Budget,
(D)
include
a
summary
of
the
RDU
Facility's
major
maintenance
schedule
to
the
end
of
the
then
current
long
term
major
maintenance
cycle
(and
related

scheduled
outages),
(E)
include
Borrower's
fair
and
good
faith
reasonable
estimates
of
the
Major
Maintenance
Expenditures
for
the
succeeding
two
years
and
the
envisioned
effect
of
any
contemplated
major
maintenance
activities
on
the
RDU
Facility's
operations,
(F)
include
the
RDU
Facility's
program
for
spare
parts
(including
the
proposed
suppliers
thereof

and
prices
therefor,
inventory
management
and
fuel
supply
management),
and
(G)
any
Project
Costs
expected
to
be
incurred
during
such
Fiscal
Year
with
respect
to
the
sustainable
aviation
fuel
expansion,
and
(H)
include
such
other
information
as
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)

may
request.

(iii)With

respect
to
discrete
capital
projects,
either
individually
or
in
the
aggregate,
exceeding
\$100
million
in
expenditures,
the
board
of
managers
(or
similar
governing
body)
of
the
Borrower
may
only
approve
or
authorize
such
expenditures
in
the
Budget
if
(A)
the
sum
of
Advances
outstanding
is
lesser

than
or
equal
to
the
applicable
Target
Debt
Balance
Amount
for
each
Fiscal
Quarter
during
the
period
of
such
Budget,
and
(B)
either
(1)
the
Budget
shows
that
the
Borrower
is
generating
sufficient
cash
flow
to
fund
such
expenditures
without
causing
a
Default
or
Event
of
Default
hereunder,
or
(b)

the
Borrower
has
commitments
available
under
one
or
more
Permitted
Debt
facilities
for
the
purpose
of
funding
such
expenditures
to
the
extent
that
Borrower's
cash
flow
is
insufficient,
and
Borrower
shall
have
delivered
to
the
Administrative
Agent
a
certificate
from
a
Responsible
Officer
certifying
that
the
conditions
set
forth
in

this
Section
6.03(e).
(iii).
are
satisfied.

(f)

SAF
Expansion
Budget.
Borrower
shall
prepare
a
proposed
annual
SAF
Expansion
Budget
each
Fiscal
Year
until
the
sustainable
aviation
fuel
expansion
project
is
completed
and
shall
submit
such
SAF
Expansion
Budget
to
the
board
of
managers
of
Borrower
for
approval
not
less

than
thirty
(30)
days
prior
to
the
commencement
of
such
Fiscal
Year,
and
Borrower
shall
furnish
to
the
Administrative
Agent
a
copy
of
such
SAF
Expansion
Budget.

(g)

Operating
Statements
and
Reports.

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(i)Borrower

shall
furnish
to
the
Administrative
Agent

on
any
date
that
financial
statements
are
delivered
pursuant
to
Section
6.03(b)
and
6.03(c),
a
quarterly
operating
report
of
the
RDU
Facility,
in
substantially
the
form
attached
hereto
as
Exhibit
I,
during
such
Fiscal
Quarter
reflecting,
among
other
things,
a
summary
of
operations
for
each
such
Fiscal
Quarter
and
a

summary
of
the
calendar
year-
to-
date
operations,
in
each
case
including
comparisons
to
the
Base
Case
Projections
and
the
Budget,
including
information
in
reasonable
detail
concerning:
(A)
throughput
volumes,
(B)
Commodity
Hedge
Agreements
in
effect
during
such
Fiscal
Quarter
and
any
deliveries
or
payments
made
thereunder,
(C)
Project
Revenues

generated
during
such
Fiscal
Quarter,
(D)
Operation
and
Maintenance
Expenses
(as
defined
in
the
CTA)
during
such
Fiscal
Quarter,
(E)
any
Capital
Expenditures
or
Major
Maintenance
Expenses
(as
defined
in
the
CTA)
made
during
such
Fiscal
Quarter,
(F)
Borrower's
most
recent
cash
planning
forecast
by
month
covering
at
least
the

next
six
months,
(G)
any
material
developments
during
such
Fiscal
Quarter
in
the
operations
of
Borrower
which
have
had
or
could
reasonably
be
expected
to
have,
either
individually
or
in
the
aggregate,
a
Material
Adverse
Effect,
(H)
a
description
of
compliance
and
non-
compliance
with
applicable
Governmental
Authorizations,
and
(I)

without
duplication
of
any
of
the
foregoing,
a
description
of
any
material
defects
or
material
malfunctions
at
the
RDU
Facility
and
factors
affecting
actual
or
expected
Operation
and
Maintenance
Expenses
(as
defined
in
the
CTA)
and
Project
Revenues,
which
report
shall
be
certified
by
a
Responsible
Officer
of
Borrower
as

being
true
and
correct
in
all
material
respects.

(ii)

(A)
The
Borrower
shall,
from
and
after
a
final
investment
decision
of
the
board
of
managers
of
Borrower
to
proceed
with
the
sustainable
aviation
fuel
expansion
being
undertaken
as
part
of
the
RDU
Facility
until
the
completion
thereof,
deliver
to

the
Administrative
Agent
on
or
before
the
15th
day
following
the
last
day
of
each
calendar
quarter,
a
quarterly
report
from
the
Borrower
describing
(1)
engineering
and
procurement
progress,
(2)
project
schedule
and
physical
progress
compared
to
planned
progress,
(3)
cumulative
expenditures
with
respect
to
Project
Costs
for
the
current

quarter
through
the
end
of
such
month,
together
with
a
comparison
of
the
same
against
the
SAF
Expansion
Budget,
(4)
the
Borrower's
then
current
estimate
of
Project
Costs
until
the
expected
date
of
completion,
(5)
any
fact
or
occurrence
of
which
the
Borrower
is
aware
that
could
reasonably
be
expected

to
(x)
increase
the
total
Project
Costs
above
those
set
forth
in
the
SAF
Expansion
Budget,
or
(y)
have,
either
individually
or
in
the
aggregate,
a
Material
Adverse
Effect.

(h)

Litigation.
Promptly
upon
any
officer
of
Borrower
obtaining
knowledge
of
(i) the
institution
of,
or
non-
frivolous
threat
of,
any

Adverse
Proceeding
not
previously
disclosed
in
writing
by
Borrower
to
the
Administrative
Agent,
or
(ii) any
material
development
in
any
Adverse
Proceeding
that,
in
the
case
of
either
sub-
clause (i).
or
(ii),
could
be
reasonably
expected
to
have
a
Material
Adverse
Effect
or
result,
or
seeks
to
enjoin
or
otherwise
prevent

the
consummation
of,
or
to
recover
any
damages
or
obtain
relief
as
a
result
of,
the
transactions
contemplated
hereby,
written
notice
thereof.

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(i)
Agreement
Notices.
Notices.
Etc.

(i) Promptly

upon
execution
thereof,
copies
of
any
indenture,
Interest
Rate
Hedge
Agreements,
Permitted

Commodity
Hedge
Agreements,
loan
or
credit
or
similar
agreement,
and
any
related
security
agreements,
guarantees
or
other
collateral
documents
entered
into
by
Borrower
or
Holdings
in
connection
with
the
incurrence
of
any
Debt
permitted
to
be
incurred
under
Section
6.02(b).
and
secured
by
a
Lien
on
any
Collateral
and
copies

of
any
subsequent
material
amendments,
modifications
or
waivers
of
any
of
the
foregoing.

(ii) Promptly

upon
receipt
or
delivery
thereof,
copies
of
all
notices,
requests
and
other
documents
received
or
provided
by
Borrower,
Holdings
or
Calumet
in
respect
of
any
default
under
or
pursuant
to
any
Material
Contract,
any
Interest

Rate
Hedge
Agreement,
Commodity
Hedge
Agreement,
Real
Estate
Documents,
and
Governmental
Authorizations.

(iii) Promptly

after
the
furnishing
thereof,
copies
of
any
material
statement
or
report
furnished
to
any
holder
of
Debt
of
Borrower
pursuant
to
the
terms
of
any
indenture,
loan
or
credit
or
similar
agreement
and
not
otherwise
required

to
be
furnished
to
the
Lender
Parties
pursuant
to
any
other
section
of
this
Article
VI.

(iv) Promptly

upon
execution
and
delivery
thereof,
true
and
complete
copies
of
any
Material
Contracts,
Specified
Debt
Documents,
Permitted
Commodity
Hedge
Agreements,
Replacement
Material
Contracts,
Real
Estate
Documents,
or
any
material
Contractual
Obligations
executed

after
the
Funding
Date
and
any
amendments,
modifications,
variances,
impairments,
assignments
or
waivers
in
respect
of
any
Material
Contracts,
Specified
Debt
Documents,
Permitted
Commodity
Hedge
Agreements,
Replacement
Material
Contracts,
Real
Estate
Documents,
or
any
material
Contractual
Obligations.

(v) Promptly

upon
receipt
thereof
(but
in
any
event
no
more
than
three

(3)
Business
Days
thereafter),
(A)
notices
of
any
non-
payment
of,
or
other
default,
or
dispute
under,
any
Specified
Debt
Documents,
(B)
notice
of
a
material
increase
in
the
cash
management
obligations
under
any
Specified
Debt
Document,
and
(C)
notice
of
any
total
loss
or
material
maintenance
event
(scheduled
or

unscheduled) relating
to
any
Stonebriar
Financed
Equipment.

(vi) Promptly

upon
execution
and
delivery
thereof,
copies
of
any
amendment,
modification
or
waiver
of
any
provision
of
any
Organizational
Documents
of
Borrower
or
Holdings.

(vii)

(A)
promptly
upon
obtaining
knowledge
thereof,
a
description
of
each
(1)
change
in
the
status
of
any
Governmental

Authorizations
(including
amendments,
modifications
or
supplements
thereof)
that
could
reasonably
be
expected
to
have
a
Material
Adverse
Effect
and
(2)
adoption,
amendment
or
repeal
of
any
applicable
law
or
Governmental
Authorization
or
written
notice
of
the
failure
to
comply
with
the
terms
and
conditions
of
any
Governmental
Authorization
which
could

reasonably
be
expected
to

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■

result
in
a
Material
Adverse
Effect,
and
(B)
promptly
upon
receipt
or
delivery
thereof,
notice
of
any
dispute
or
material
correspondence
between
Borrower,
Holdings,
or
Calumet
and
any
Governmental
Authority
involving
the
revocation,
modification,
failure
to
renew

or
the
like
of
any
Governmental
Authorization
or
the
imposition
of
additional
conditions
with
respect
thereto,
to
the
extent
if
adversely
determined
could
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(viii) Promptly,

and
in
any
event
within
three
(3)
Business
Days,
upon
any
Responsible
Officer
of
Borrower
obtaining

knowledge
of
any
notice
of
any
material
communication
received
by
Borrower
from
any
Governmental
Authority
which
could
result
in
a
Material
Adverse
Effect.

(ix) Promptly

notify
the
Administrative
Agent
upon
the
incurrence
of
Operating
and
Maintenance
Expenses
in
any
three
month
period
to
the
extent
such
incurrence
exceeds
115%
of

the
Operating
and
Maintenance
Expenses
budgeted
for
such
three
month
period
pursuant
to
the
then
Budget;

(x) Promptly

notify
the
Administrative
Agent
of
the
occurrence
of
any
Casualty
Event,
Event
of
Eminent
Domain,
or
the
existence
of
any
defect
of
title
or
Lien
on
any
Property
of
any
of
Borrower

(other
than
Permitted
Liens)
that
entitles
Borrower
or
the
Collateral
Agent
to
make
a
claim
under
the
policy
or
policies
of
title
insurance
issued
in
the
favor
of
Borrower
or
such
Collateral
Agent,
in
each
case,
whether
or
not
insured;

(xi) Promptly

notify
the
Administrative
Agent
of
any
material
change

in
accounting
policies
or
financial
reporting
practices
by
Borrower;

(xii) Promptly

notify
the
Administrative
Agent
of
any
assertion
of
the
occurrence
of
any
event
of
force
majeure
under
any
Material
Contract
and,
to
the
extent
requested
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
and
available

to
Borrower,
copies
of
any
invoices,
statements,
supporting
documentation,
schedules,
data
or
affidavits
delivered
under
such
Material
Contract;

(xiii) Promptly

notify
the
Administrative
Agent
of
any
forced
outage
in
respect
of
the
RDU
Facility
in
excess
of
24
hours;

(xiv) Promptly

notify
the
Administrative
Agent
after
any
Responsible
Officer
of
Borrower,

Holdings
or
Calumet
obtains
knowledge
of
the
occurrence
of
any
event
that
is
likely
to
have
a
Material
Adverse
Effect,
and,
to
the
extent
the
Administrative
Agent
requests,
copies
of
all
documentation
relating
thereto;

(xv) From

time
to
time
upon
request
by
the
Administrative
Agent,
provide
the
Administrative
Agent
with

such
information
and
reports
regarding
the
Material
Contracts,
Real
Estate
Documents,
Permitted
Commodity
Hedge
Agreements,
the
Specified
Debt
Documents,
and
the
Governmental
Authorizations
obtained
in
respect
of
Borrower,
Holdings,
and
such
instruments,
indentures
and
loan
and
credit
and
similar
agreements,
in
each
case,
as
the
Administrative
Agent
may
reasonably
request.

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■

(j)

ERISA.

(i) Promptly

upon
becoming
aware
of
the
occurrence
of
any
ERISA
Event,
a
written
notice
specifying
the
nature
thereof,
what
action
Borrower
or
any
of
their
respective
ERISA
Affiliates
has
taken,
is
taking
or
proposes
to
take
with
respect

thereto
and,
when
known,
any
action
taken
or
threatened
by
the
IRS,
the
Department
of
Labor
or
the
PBGC
with
respect
thereto;
and

(ii) to

the
extent
requested
in
writing
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders),
copies
of
(1) each
Schedule SB
(Actuarial
Information)
to
the

annual
report
(Form
5500
Series)
filed
by
Borrower
or
any
of
their
Subsidiaries
with
the
IRS
with
respect
to
any
Pension
Plan;
(2) all
notices
received
by
Borrower
or
any
of
their
Subsidiaries
from
a
Multiemployer
Plan
sponsor
concerning
a
potential
ERISA
Event;
and
(3) copies
of
such
other
material
documents
or

governmental
reports
or
filings
relating
to
any
Pension
Plan
maintained
or
sponsored
by
Borrower
or
any
of
their
Subsidiaries
as
the
Administrative
Agent
(acting
at
the
reasonable
direction
of
the
Required
Lenders)
shall
request.

(k)

Environmental
Conditions.

(i) Except

as
otherwise
disclosed
in
Schedule
5.01(k),
promptly
upon
the
occurrence
thereof,

written
notice
describing
in
reasonable
detail
(A) any
Release
required
to
be
reported
to
any
Governmental
Authority
under
any
Environmental
Law
except
as
otherwise
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
(B) any
remedial
action
taken
or
required
to
be
taken
pursuant
to
any
Environmental
Law
by
Borrower

or
any
other
Person
in
response
to
(1) any
Hazardous
Materials
Activities
the
occurrence
of
which
has
a
reasonable
possibility
of
resulting
in
one
or
more
Environmental
Actions
except
as
otherwise
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
or
(2) any
Environmental
Actions
except
as
otherwise
could
not

reasonably
be
expected
to
have
a
Material
Adverse
Effect,
'(C) Borrower'
discovery
of
any
occurrence
or
condition
at
or
on
the
Real
Estate
Assets
or
any
real
property
adjoining
or
in
the
vicinity
of
the
Real
Estate
Assets
that
could
cause
the
Real
Estate
Assets
or
any
part
thereof
to
be

subject
to
any
material
restrictions
on
the
ownership,
occupancy,
transferability
or
use
thereof
under
any
Environmental
Law
except
as
otherwise
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
(D) any
Environmental
Action
with
respect
to
the
RDU
Facility
except
as
otherwise
could
not
reasonably
be
expected
to
have

a
Material
Adverse
Effect
and
(E) any
request
for
information
from
any
Governmental
Authority
that
suggests
such
authority
is
investigating
whether
any
of
Borrower
may
be
potentially
responsible
for
any
Hazardous
Materials
Activity
except
as
otherwise
could
not
reasonably
be
expected
to
have
a
Material
Adverse
Effect.

(ii)At

least
annually

until
such
matter
has
been
resolved,
a
written
report
describing
in
reasonable
detail
the
status
of
any
matter
for
which
notice
has
been
provided
pursuant
to
Section
6.03(k).
(i).

(l)

Insurance.
Etc.

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■

(i)As

soon
as
available
and
in
any
event

within 30 days
after
the
expiration
of
each
policy
(or
such
longer
period
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
may
agree),
a
certificate
of
insurance
or
letter
of
confirmation
from
Borrower's
Insurance
Broker
to
the
effect
that
insurance
satisfying
the
requirements
of
the
Loan
Documents
is

in
full
force
and
effect
and
that
all
premiums
then
due
in
respect
of
such
insurance
have
been
paid.

(ii) Promptly

after
the
occurrence
thereof,
notice
of
any
Casualty
Event
or
Event
of
Eminent
Domain
affecting
Borrower
or
any
of
its
Property,
whether
or
not
insured,
through
fire,
theft,
other

hazard,
casualty
or
otherwise
involving
a
probable
loss
of
\$5,000,000
or
more.

(iii) Promptly

after
obtaining
knowledge
of
any
early
cancellation,
cancellation,
non-
renewal,
or
material
change
in
the
terms,
coverage
or
amounts
of
any
insurance
required
to
be
maintained
pursuant
to
Section
6.01(d),
a
statement
a
Responsible
Officer
of

Borrower
setting
forth
the
details
of
such
cancellation,
non-
renewal
or
change.

(iv) Subject

to
Section
6.03(l)
(ii),
within
five
(5)
Business
Days
of
the
occurrence
thereof,
notice
of
any
Casualty
Event
affecting
Borrower
or
any
of
its
Property,
whether
or
not
insured,
through
fire,
theft,
other
hazard,
casualty

or
otherwise.

(m)

Information
Regarding
Collateral.
Prompt
written
notice
of
any
change
in
Borrower's
(i) corporate
name,
(ii) identity
or
corporate
structure
or
(iii) jurisdiction
of
organization.
Borrower
agree
not
to
effect
or
permit
any
change
referred
to
in
the
preceding
sentence
unless
all
filings
have
been
made
under
the
UCC
or

otherwise
that
are
reasonably
required
in
order
for
the
Collateral
Agent
to
continue
at
all
times
following
such
change
to
have
a
valid,
legal
and
perfected
security
interest
in
all
the
Collateral
to
the
extent
contemplated
in
the
Security
Documents.

(n)

OFAC.

(i) If

Borrower
obtains
actual
knowledge
or
receives

any
written
notice
that
Borrower
or
any
Person
holding
any
legal
or
beneficial
interest
whatsoever
therein
(whether
directly
or
indirectly)
is
named
on
the
OFAC
SDN
List
(such
occurrence,
an
"OFAC
Violation"),
Borrower
shall
immediately
(i) give
written
notice
to
the
Administrative
Agent
of
such
OFAC
Violation,
and
(ii) comply
with
all

applicable
laws
with
respect
to
such
OFAC
Violation
(regardless
of
whether
the
party
included
on
the
OFAC
SDN
List
is
located
within
the
jurisdiction
of
the
United
States
of
America),
including
the
OFAC
laws,
and
Borrower
hereby
authorizes
and
consents
to
the
Administrative
Agent
taking
any
and
all
steps
it

deems
necessary
(acting
at
the
direction
of
the
Required
Lenders),
in
their
sole
discretion,
to
comply
with
all
applicable
laws
with
respect
to
any
such
OFAC
Violation,
including
the
requirements
of
the
OFAC
laws
(including
the
“freezing”
and/or
“blocking”
of
assets
and
reporting
such
action
to
OFAC).

(ii) Borrower

shall

provide
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
with
any
information
regarding
Borrower
requested
by

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-

the
Administrative
Agent
and
necessary
for
the
Lenders
to
comply
with
all
Anti-
Money
Laundering
Laws.

(o)

Other
Information.
Such
other

information
respecting
the
business,
condition
(financial
or
otherwise),
operations,
performance
or
Properties
(including
information
on
insurance
coverage)
of
Borrower
as
any
Agent,
or
any
Lender
through
the
Administrative
Agent,
may
from
time
to
time
reasonably
request.

SECTION

1.03 Financial
Covenant.
Borrower
covenants
and
agrees
that
it
will:

(a)

Net
Total

Leverage
Ratio.

|

(i) Maintain

as
of
the
last
day
of
any
Fiscal
Quarter
commencing
with
the
Fiscal
Quarter
ending
June
30,
2024
and
ending
with
the
Fiscal
Quarter
ending
March
30,
2025,
a
Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last
day
of
such

Fiscal
Quarter
of
not
greater
than 4.50:1.00;

(ii) Maintain

as
of
the
last
day
of
any
Fiscal
Quarter
commencing
with
the
Fiscal
Quarter
ending
June
30,
2025
and
ending
with
the
Fiscal
Quarter
ending
March
30,
2026,
a
Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last

day
of
such
Fiscal
Quarter
of
not
greater
than 4.00:1.00;
and

(iii) Maintain

as
of
the
last
day
of
any
Fiscal
Quarter
commencing
with
the
Fiscal
Quarter
ending
June
30,
2026,
a
Net
Total
Leverage
Ratio
calculated
for
the
Measurement
Period
ending
on
the
last
day
of
such
Fiscal
Quarter
of

not
greater
than 3.50:1.00

(b)

Right
to
Cure
Financial
Covenant.

(i)
Notwithstanding
anything
to
the
contrary
contained
in
clause (a).
if
Borrower
fails
to
comply
with
the
requirements
of
the
covenant
set
forth
in
clause (a).
(the
"Financial
Covenant"),
then
until
the 10th
Business
Day
after
delivery
of
the
related
certificate
pursuant
to

Section
6.03(d).
(ii).
Borrower
shall
have
the
right
to
receive
Cash
equity
Contributions
(directly
or
indirectly)
from
the
Sponsor
or
Holdings
in
an
aggregate
amount
equal
to
the
amount
that,
if
added
to
EBITDA
for
the
relevant
Measurement
Period,
would
have
been
sufficient
to
cause
compliance
with
the
Financial
Covenant

for
such
Measurement
Period
(an
“Equity
Cure”).

(ii) Borrower

shall
give
the
Administrative
Agent
written
notice
(the
“Cure
Notice”)
of
an
Equity
Cure
on
or
before
the
day
the
Equity
Cure
is
consummated.
Borrower
shall
be
entitled
to
exercise
the
Equity
Cure:

(A) no

more
than
two
times
within
any
consecutive

four
Fiscal
Quarters;
and

(B)no

more
than
three
times
in
total
during
the
term
of
this
Agreement.

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■

(iii)Upon

the
delivery
by
Borrower
of
a
Cure
Notice,
no
Default
or
Event
of
Default
shall
be
deemed
to
exist
pursuant
to
the

Financial
Covenant
(and
any
such
Default
or
Event
of
Default
shall
be
retroactively
considered
not
to
have
existed
or
occurred).
If
the
Equity
Cure
is
not
consummated
within 10 Business
Days
after
delivery
of
the
related
certificate
pursuant
to
Section
6.03(d).
(ii),
each
such
Default
or
Event
of
Default
shall
be

deemed
reinstated.

(iv) The
cash
amount
received
by
Borrower
pursuant
to
exercise
of
the
right
to
make
an
Equity
Cure
shall
be
added
to
EBITDA
for
the
last
quarter
of
the
immediately
preceding
Measurement
Period
solely
for
purposes
of
recalculating
compliance
with
the
Financial
Covenant
for
such
Measurement
Period
and

of
calculating
the
Financial
Covenant
as
of
the
end
of
the
next
three
following
Measurement
Periods
(but
only
the
portion
of
such
Equity
Cure
required
to
cause
Borrower
to
be
in
compliance
with
the
Financial
Covenant
for
such
Measurement
Period
shall
be
included
in
the
calculation
of
EBITDA
for
purposes

of
determining
compliance
with
the
Financial
Covenant
in
accordance
with
the
foregoing),
and
except
as
set
forth
in
this
Section
6.04(b),
the
Equity
Cure
may
not
be
used
in
any
other
calculation
for
purposes
of
any
provision
under
this
Agreement
and
shall
be
disregarded
for
purposes
of
incurrence
of
any

Debt,
the
making
of
any
Restricted
Payment,
determining
the
availability
of
any
baskets,
pricing,
or
step-
downs
with
respect
to
other
provisions
contained
in
the
Loan
Documents.
For
the
avoidance
of
doubt,
an
Equity
Cure
shall
be
deemed
to
be
made
on
the
last
Business
Day
of
the
relevant
Measurement

Period
even
if
such
Equity
Cure
is
made
after
such
date.
There
shall
be
no
pro
forma
or
other
reduction
of
Total
Net
Debt
(including
by
way
of
cash
netting)
using
the
proceeds
of
any
Equity
Cure
for
purposes
of
determining
compliance
for
the
Measurement
Period
in
respect
of
which

such
Equity
Cure
was
made.

SECTION

1.04 Permitted Activities of Holdings.

(a)

Notwithstanding
anything
to
the
contrary
contained
herein,
Holdings
shall
not
engage
in
any
business
or
other
activity
other
than
maintaining
its
existence,
holding
and
maintaining
its
interest
in
the
Equity
Interests
of
Borrower
as
of
the
Closing
Date,

together
with
activities
directly
related
thereto
and
performing
its
Obligations
under
the
Loan
Documents
and
the
other
agreements
contemplated
hereby
and
actions
incidental
hereto,
it
being
understood
and
agreed
that
all
revenue,
collections
and
other
payments
(excluding
any
Restricted
Payments
permitted
to
be
received
or
held
by
it
under
the

Loan Documents) relating to the RDU Facility shall inure to the benefit of, and be payable to, Borrower (and Holdings hereby agrees that, in the event it should receive any such revenue, collections or payment, it will immediately contribute the same to the capital of Borrower as of the Closing

Date).
In
furtherance
of,
and
not
in
limitation
of,
the
foregoing,
Holdings
shall
not
(a)
create,
incur,
assume
or
suffer
to
exist
any
Debt,
(b)
create,
assume,
or
suffer
to
exist
any
Lien
upon,
or
grant
any
options
or
other
rights
with
respect
to,
any
of
its
revenues,
property
or

other
assets,
whether
now
owned
or
hereafter
acquired
(other
than
Liens
granted
in
favor
of
the
Collateral
Agent
pursuant
to
the
Security
Documents
for
the
benefit
of
Secured
Parties),
(c)
wind-
up,
liquidate
or
dissolve
itself
(or
suffer
to
exist
any
of
the
foregoing),
consolidate
or
amalgamate
with
or
merge

into
or
with
any
other
Person,
or
convey,
sell,
transfer,
lease
or
otherwise
dispose
of
all
or
any
part
of
its
assets
(other
than
assets
that
do
not
comprise

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■

Collateral
or
as
otherwise
specifically
permitted
hereunder
or
under
the
other
Loan

Documents)
in
one
transaction
or
a
series
of
transactions,
to
any
Person
or
Persons,
(d)
create,
incur,
assume
or
suffer
to
exist
any
Investment
in
any
Person
(other
than
its
continuing
ownership
of
Equity
Interests
of
Borrower
or
any
loan
made
to
Borrower
pursuant
to
Section
6.02(b).
(viii))
or
(e)

permit
to
be
taken
any
action
that
would
result
in
a
Change
of
Control.

(b)

Notwithstanding
anything
to
the
contrary
herein,
Holdings
may
create
a
wholly
owned
Subsidiary
for
the
sole
purpose
of
owning
Equity
Interests
of
the
Borrower;
provided,
that
prior
to
transfer
of
any
Equity
Interests
of

the
Borrower
to
such
newly
formed
Subsidiary,
Borrower
and
Holdings
shall:
(i)
provide
the
Administrative
Agent
with
twenty
(20)
Business
Days'
prior
written
notice,
(ii)
shall
cause
the
newly
formed
Subsidiary
to
accede
or
join
to
the
applicable
Loan
Documents
and
become
subject
to
the
same
covenants
as
Holdings,
including

Section
6.05(a),
and
(iii)
shall
deliver
all
necessary
amendments
to
the
Loan
Documents,
financing
statements,
lien
search
results,
and
legal
opinions
requested
by
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
in
connection
thereto.
The
Administrative
Agent
agrees
that
upon
satisfaction
of
the
requirements
in
the
previous

sentence
and
transfer
of
Equity
Interests
of
the
Borrower
to
such
new
formed
Subsidiary,
(i)
Holdings
shall
be
automatically
released
from
the
requirements
of
Section
6.05(a),
(ii)
the
Administrative
Agent
shall
(at
the
direction
of
the
Required
Lenders)
promptly
execute
and/or
deliver,
and
shall
instruct
the
Collateral
Agent
to
deliver

in
accordance
with
the
CTA,
such
releases
and
other
documents
(including
UCC
termination
statements)
as
the
Borrower
may
reasonably
request
in
order
to
evidence
the
release
of
Holdings
contemplated
by
this
Section
6.05(b).
and
(iii)
from
and
after
such
release
date,
all
references
to
Holdings
hereof
shall
be
deemed
references

to
such
wholly
owned
Subsidiary.

ARTICLE
II

EVENTS
OF
DEFAULT

SECTION

2.01 Events
of
Default.
Each
of
the
following
events
or
occurrences
shall
constitute
an
"Event
of
Default".

(a)

(i)
Borrower
shall
fail
to
pay
any
principal
of
the
Advances
when
the
same
shall
become
due
and
payable,

(ii) Borrower
shall
fail
to
pay
any
interest
on
the
Advances
within
five
(5)
Business
Days
after
the
same
shall
become
due
and
payable,
or
(iii) Borrower
or
Holdings
shall
fail
to
make
any
other
payment
under
any
Loan
Document
to
which
it
is
party
within
five
(5)
Business
Days
after
the

same
shall
become
due
and
payable;
or

(b)

any
certification,
representation
or
warranty
made
by
Borrower
or
Holdings
(or
any
of
its
officers)
under
or
in
connection
with
any
Loan
Document
to
which
it
is
a
party
(including
in
any
certificate
delivered
pursuant
to
Article
VI
or
Section
6.03)

shall
prove
to
have
been
incorrect
in
any
material
respect
when
made;
provided
that,
if
(i)
Borrower
or
Holdings
was
not
aware
that
such
certification,
representation
or
warranty
was
false
or
incorrect
at
the
time
such
certification,
representation
or
warranty
was
made,
(ii)
the
fact,
event
or
circumstance
resulting
in

such
false
or
incorrect
certification,
representation
or
warranty
is
capable
of
being
cured,
corrected
or
otherwise
remedied,
and
(iii)
such
fact,
event
or
circumstance
resulting
in
such
false
or
incorrect
certification,
representation
or
warranty
shall
have
been
cured,
corrected
or
otherwise
remedied

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■

within
30
days
from
the
date
a
Responsible
Officer
of
Borrower
or
Holdings
obtains
knowledge
thereof,
such
false
or
incorrect
certification,
representation
or
warranty
shall
not
constitute
a
Default
or
an
Event
of
Default
for
purposes
of
the
Loan
Documents;
or
(c)
Borrower
or
Holdings
shall
fail
to

perform
or
observe
any
term,
covenant
or
agreement
contained
in
Section
3.08.
Section
6.01(d).
Section
6.01(e).
Section
6.02.
Section
6.03(a).
or
Section
6.04
(subject
to
Borrower's
rights
under
clause (b).
thereof);
provided
that,
with
respect
to
any
such
failure
to
perform
or
observe
any
term,
covenant
or
agreement
contained
in
Section

6.02(p).

(iii).

that

would

also

result

in

an

Event

of

Default

described

in

Section

7.01(q).

then

Section

7.01(q).

shall

apply

with

respect

to

event

or

circumstance

to

the

extent

addressed

therein

instead

of

this

Section

7.01(c);

or

(d)

Borrower

or

Holdings

shall

fail

to

perform

or

observe

any

term,

covenant
or
agreement
contained
in
Section
6.03(b),
(c),
(d),
(e),
or
(g),
or
Section
6.05
and
such
failure
shall
remain
unremedied
for 15 days
after
the
earlier
of
the
date
on
which
(x) any
Responsible
Officer
of
a
Borrower
or
Holdings
becomes
aware
of
such
failure
or
(y) written
notice
thereof
shall
have
been

given
to
Borrower
or
Holdings
by
the
Administrative
Agent
or
any
Lender;
or

(e)

Borrower
or
Holdings
shall
fail
to
perform
or
observe
any
other
term,
covenant
or
agreement
contained
in
any
Loan
Document
on
its
part
to
be
performed
or
observed
and
such
failure
shall
remain
unremedied
for 30 days

after
the
earlier
of
the
date
on
which
(i) any
Responsible
Officer
of
such
Person
becomes
aware
of
such
failure
or
(ii) written
notice
thereof
shall
have
been
given
to
Borrower
or
Holdings
by
the
Administrative
Agent
or
any
Lender;
provided
that,
(A) if
such
failure
does
not
involve
the
payment
of
money

to
any
Person
and
is
not
susceptible
to
cure
within
such 30 days,
(B) such
Person
is
proceeding
with
diligence
and
good
faith
to
cure
such
default
and
such
default
is
susceptible
to
cure
and
(C) the
existence
of
such
failure
has
not
resulted
in
a
Material
Adverse
Effect,
such 30 day
period
shall
be
extended

as
may
be
necessary
to
cure
such
failure,
such
extended
period
not
to
exceed 90 days
in
the
aggregate
(inclusive
of
the
original 30-
day
period);
or

(f)

(i)
Borrower
or
Holdings
shall
fail
to
pay
any
principal
of,
premium
or
interest
on
or
any
other
amount
payable
in
respect
of
(A)

(x)
any
Debt
for
Borrowed
Money
of
Borrower
or
Holdings
that
is
outstanding
or
(y)
any
Hedge
Agreements,
in
each
case
in
an
amount
equal
to
the
greater
of
\$5,000,000
and
five
percent
(5%)
of
trailing
twelve
month
EBITDA
or
(B)
without
prejudice
to
Section
7.01(a).
above,
the
Specified
Debt

Documents,
in
each
case
when
the
same
becomes
due
and
payable
(whether
by
scheduled
maturity,
required
prepayment,
acceleration,
early
termination,
demand
or
otherwise),
and
such
failure
shall
continue
after
the
applicable
grace
period,
if
any,
specified
in
the
agreement
or
instrument
relating
to
such
Debt
for
Borrowed
Money,
Hedge
Agreement,

or
Specified
Debt
Document;
or
(ii) Borrower
or
Holdings
is
in
default
in
the
performance
of
or
compliance
with
any
term
of,
or
any
other
event
shall
occur
or
condition
shall
exist
under,
any
agreement
or
instrument
relating
to
any
such
Debt
for
Borrowed
Money,
under
any
such
Hedge
Agreement,
or

under
any
Specified
Debt
Document,
as
applicable,
and
such
default,
non-
compliance
or
other
event
shall
continue
after
the
applicable
grace
period,
if
any,
specified
in
such
agreement
or
instrument,
if
the
effect
of
such
event
or
condition
is
to
cause
(or
to
entitle
one
or
more
Persons
to
declare)

such
Debt
for
Borrowed
Money
or
amounts
payable
under
such
Hedge
Agreement,
or
any
Specified
Debt
Document,
as
applicable,
to
be
immediately
due
and
payable
or
required
to
be
prepaid,
redeemed,
purchased
or
defeased
(other
than
by
a

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■

regularly
scheduled
required

prepayment
or
redemption)
or
to
cause
(or
to
entitle
one
or
more
Persons
to
declare)
the
termination
of
such
Hedge
Agreement
or
such
Specified
Debt
Document,
as
applicable;

(g)

(i)
Borrower
or
Holdings
shall
generally
not
pay
its
debts
as
such
debts
become
due,
or
shall
admit
in
writing

its
inability
to
pay
its
debts
generally,
or
shall
make
a
general
assignment
for
the
benefit
of
creditors;
or
(ii)
any
proceeding
shall
be
instituted
by
or
against
Borrower
or
Holdings
seeking
to
adjudicate
it
a
bankrupt
or
insolvent,
or
seeking
liquidation,
winding
up,
reorganization,
arrangement,
adjustment,
protection,
relief,
or

composition
of
it
or
its
debts
under
any
law
relating
to
bankruptcy,
insolvency
or
reorganization
or
relief
of
debtors,
or
seeking
the
entry
of
an
order
for
relief
or
the
appointment
of
a
receiver,
trustee
or
other
similar
official
for
it
or
for
any
substantial
part
of
its
property
and,

in
the
case
of
any
such
proceeding
instituted
against
it
(but
not
instituted
by
it)
that
is
being
diligently
contested
by
it
in
good
faith,
either
such
proceeding
shall
remain
undismissed
or
unstayed
for
a
period
of 90 days
or
any
of
the
actions
sought
in
such
proceeding
(including
the
entry
of

an
order
for
relief
against,
or
the
appointment
of
a
receiver,
trustee,
custodian
or
other
similar
official
for,
it
or
any
substantial
part
of
its
property)
shall
occur;
or
(iii)
any
Person
shall
take
any
corporate
action
to
authorize
any
of
the
actions
set
forth
above
in
this
clause (g);
or

(h)

any
judgments
or
orders,
either
individually
or
in
the
aggregate,
for
the
payment
of
money
in
excess
of
the
greater
of
(x)
\$15,000,000
or
(y)
five
percent
(5%)
of
trailing
twelve
month
EBITDA
shall
be
rendered
against
Borrower
or
Holdings
and
either
(i)
enforcement
proceedings
shall
have
been
commenced

by
any
creditor
upon
such
judgment
or
order
or
(ii)
there
shall
be
any
period
of 60
consecutive
days
during
which
a
stay
of
enforcement
of
such
judgment
or
order,
by
reason
of
a
pending
appeal
or
otherwise,
shall
not
be
in
effect;
or

(i)

any
non-
monetary
judgment
or

order
shall
be
rendered
against
Borrower
or
Holdings
that
has
resulted
in
a
Material
Adverse
Effect,
and
there
shall
be
any
period
of 30
consecutive
days
during
which
a
stay
of
enforcement
of
such
judgment
or
order,
by
reason
of
a
pending
appeal
or
otherwise,
shall
not
be
in
effect;
or

(j)

any
provision
of
any
Loan
Document
after
delivery
thereof
pursuant
to
Section
4.01
shall
for
any
reason
cease
to
be
valid
and
binding
on
or
enforceable
against
Borrower
or
Holdings
(to
the
extent
such
Persons
are
party
to
it),
or
Borrower
or
Holdings
shall
so
state
in
writing;
or

(k)

any
Security
Document
or
financing
statement
after
delivery
thereof
pursuant
to
Section
4.01
shall
for
any
reason
(other
than
pursuant
to
the
terms
thereof
or
as
a
result
of
action
taken
by
any
Agent
or
any
other
Secured
Party)
cease
to
create
a
valid
and
perfected
first
priority
lien

on
and
security
interest
in
the
Collateral
to
the
extent
contemplated
hereby
or
thereby,
or

(l)

(i) there
shall
occur
one
or
more
ERISA
Events
which
individually
or
in
the
aggregate
results
in
liability
of
Borrower
or
Holdings
and
if
such
liability,
together
with
all
other
such
liabilities,
is
reasonably

likely
to
result
in
a
Material
Adverse
Effect;
or
(ii) a
Lien
or
security
interest
under
Section
430(k)
of
the
Internal
Revenue
Code
or
under
ERISA
has
been
imposed
on

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the
Collateral,
Borrower,
or
any
Employee
Benefit
Plan,
and
such
Lien,
together

with
all
other
such
Liens,
would
reasonably
be
likely
to
result
in
a
Material
Adverse
Effect;
or

(m)

any
Event
of
Abandonment
shall
occur;
or

(n)

Borrower
or
Holdings
shall
be
in
breach
of
any
material
obligation,
or
a
material
default
by
Borrower
or
Holdings
shall
have
occurred
and

be
continuing,
under:
(i)
a
Specified
Material
Contract
and
such
breach
has
resulted
in
or
could
reasonably
be
expected
to
result
in
an
event
that
is
material
and
adverse
to
the
interests
of
the
Lender
Parties,
or
(ii)
a
Material
Contract,
and
such
breach
has
resulted
in
or
could
reasonably

be
expected
to
result
in
a
Material
Adverse
Effect,
and
in
each
case
of
(i)
and
(ii),
such
breach
or
default
shall
not
be
remediable
or,
if
remediable,
shall
continue
unremedied
for
a
period
equal
to
the
lesser
of
cure
period
provided
under
the
Material
Contract
or
30
days
from

the
time
Borrower
or
Holdings
obtains
knowledge
thereof;
provided,
however,
that,
if
(A)
such
breach
cannot
be
cured
within
such
period,
(B)
such
breach
is
susceptible
of
cure,
(C)
Borrower
or
Holdings
is
proceeding
with
diligence
and
in
good
faith
to
cure
such
breach
or
such
breach
is
being
contested

in
good
faith
by
appropriate
proceedings
and
with
respect
to
which
reserves
in
conformity
with
GAAP
have
been
provided
on
the
books
and
(D)
the
Administrative
Agent
shall
have
received
a
certificate
signed
by
a
Responsible
Officer
of
Borrower
or
Holdings
to
the
effect
of
clauses
(A),
(B)
and
(C)

above
and
stating
what
action
Borrower
or
Holdings
is
taking
to
cure
such
breach
then
such
cure
period
shall
be
extended
to
such
date,
not
to
exceed
a
total
of
90
days,
as
shall
be
necessary
for
Borrower
or
Holdings
diligently
to
cure
such
breach;
or
(o)
(i)
any

Material
Contract
or
any
Stonebriar
Financing
Document
is
terminated,
cancelled
or
rescinded
prior
to
the
expiration
thereof
pursuant
to
its
terms,
(ii)
Stonebriar
or
any
other
counterparty
to
a
Material
Contract
shall
materially
breach,
or
be
in
material
default
under,
or
shall
repudiate
any
such
Material
Contract,
Consent
or
Stonebriar

Financing Documents, as applicable; or (iii) Stonebriar or any other counterparty to a Material Contract shall be subject to an Insolvency Event; provided that there shall be no Event of Default under this Section 7.01(o). if (1) any such event or circumstance relates to (x) a Material Contract that is

not
a
Specified
Material
Contract
and
is
not
reasonably
expected
to
result
in
a
Material
Adverse
Effect
or
(y)
to
the
Stonebriar
Financing
Documents
in
circumstances
where
the
Debt
thereunder
is
paid
in
full
by
the
Borrower
as
permitted
hereunder,
(2)
in
the
case
of
an
Insolvency
Event
with
respect

to
Stonebriar
or
any
other
counterparty
to
a
Material
Contract,
Stonebriar
or
such
other
counterparty,
as
applicable,
is
continuing
to
perform
all
of
its
material
obligations
under
each
Material
Contract
or
Stonebriar
Financing
Documents,
as
applicable,
to
which
it
is
a
party
and
such
Insolvency
Event
could
not
reasonably
be

expected
to
result
in
an
event
that
is
material
and
adverse
to
the
interests
of
the
Lender
Parties,
(3)
in
the
case
of
any
Consent
or
Material
Contract
that
is
not
a
Specified
Material
Contract
of
the
type
set
forth
in
clauses
(a),
(b),
(c)
and
(e)
of
the
definition

thereof,
Borrower
executes
and
delivers
a
Replacement
Material
Contract
within
sixty
(60)
days
of
any
termination,
cancellation,
rescissions,
repudiation,
breach
or
Insolvency
Event
that
would
otherwise
give
rise
to
an
Event
of
Default
under
this
Section
7.01(o).
or
(4)
in
the
case
of
a
failure
to
perform
or
observe
any

material
term,
covenant
or
agreement
contained
in
any
Consent
or
any
Material
Contract,
such
failure
to
perform
has
not
resulted
in
an
event
that
is
material
and
adverse
to
the
interests
of
the
Lender
Parties;
or

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-

(p)

any
material
portion

of
Borrower's
or
Holdings'
Property
is
damaged,
seized
or
appropriated
without
fair
value
being
paid
therefor
(by
insurance
or
otherwise)
such
as
to
allow
replacement
of
such
Property
and/or
prepayment
of
the
Secured
Obligations
and
to
allow
Borrower
and/or
Holdings,
as
applicable,
to
continue
satisfying
its
Obligations
under
this
Agreement

and
the
other
Transaction
Documents,
in
each
case
after
giving
effect
to
any
cash
Contributions
to
the
common
equity
of
Borrower
or
Holdings,
as
applicable,
for
the
purpose
of
funding
such
replacement
and/or
prepayment;
then,
and
in
any
such
event,
and
for
so
long
as
such
Event
of
Default

shall
exist,
the
Administrative
Agent
(A) shall
at
the
request,
or
may
with
the
consent,
of
the
Required
Lenders,
by
notice
to
Borrower,
declare
the
Commitments
of
each
Lender
and
the
obligation
of
each
Lender
to
make
the
Advances
to
be
terminated,
whereupon
the
same
shall
forthwith
terminate,
and
(B) shall
at

the
request,
or
may
with
the
consent,
of
the
Required
Lenders,
by
notice
to
Borrower,
declare
the
Advances,
all
interest
thereon
and
all
other
amounts
payable
under
this
Agreement
and
the
other
Loan
Documents
to
be
forthwith
due
and
payable,
whereupon
the
Advances,
all
such
interest
and
all
such
amounts

shall
become
and
be
forthwith
due
and
payable,
without
presentment,
demand,
protest
or
further
notice
of
any
kind,
all
of
which
are
hereby
expressly
waived
by
Borrower;
provided
that,
upon
the
occurrence
of
an
Event
of
Default
described
in
clause (g),
(x) the
Commitments
of
each
Lender
and
the
obligation
of
each

Lender
to
make
the
Advances
shall
automatically
be
terminated
and
(y) the
Advances,
all
such
interest
and
all
such
amounts
shall
automatically
become
and
be
due
and
payable,
without
presentment,
demand,
protest
or
any
notice
of
any
kind,
all
of
which
are
hereby
expressly
waived
by
Borrower.

The
Required
Lenders

by
written
notice
to
the
Administrative
Agent
may
on
behalf
of
the
Lenders
waive
an
existing
Default
or
Event
of
Default
and
its
consequences
hereunder.
Upon
any
such
waiver,
such
Default
shall
cease
to
exist,
and
any
Event
of
Default
arising
therefrom
shall
be
deemed
to
have
been
cured
for

every
purpose
of
this
Agreement;
but
no
such
waiver
shall
extend
to
any
subsequent
or
other
Default
or
Event
of
Default
or
impair
any
right
consequent
thereon.
The
Required
Lenders,
by
written
notice
to
the
Administrative
Agent,
may
on
behalf
of
all
of
the
Lenders
rescind
an
acceleration
and
its

consequences

if

the

rescission

would

not

conflict

with

any

judgment

or

decree

and

if

all

existing

Events

of

Default

(except

nonpayment

of

principal

or

interest

that

has

become

due

solely

because

of

the

acceleration)

have

been

cured

or

waived.

ARTICLE

III

THE

AGENTS

SECTION

3.01Appointment

of

Agent.

Each

of

the
Lenders
hereby
irrevocably
appoints
Delaware
Trust
Company
to
act
on
its
behalf
as
the
Administrative
Agent
hereunder
and
under
the
other
Loan
Documents
and
authorizes
the
Administrative
Agent
to
take
such
actions
on
its
behalf
and
to
exercise
such
powers
as
are
delegated
to
the
Administrative
Agent
by
the

terms
hereof
or
thereof,
together
with
such
actions
and
powers
as
are
reasonably
incidental
thereto.
The
provisions
of
this
Article
are
solely
for
the
benefit
of
the
Administrative
Agent
and
the
Lenders,
and
Borrower
shall
not
have
rights
as
a
third-
party
beneficiary
of
any
of
such
provisions.
It
is

understood
and
agreed
that
the
use
of
the
term
“agent”
herein
or
in
any
other
Loan
Documents
(or
any
other
similar
term)
with
reference
to
the
Administrative
Agent
is
not
intended
to
connote
any
fiduciary
or
other
implied
(or
express)
obligations
arising
under
agency
doctrine
of

-

any
applicable
law.
Instead
such
term
is
used
as
a
matter
of
market
custom,
and
is
intended
to
create
or
reflect
only
an
administrative
relationship
between
contracting
parties.

SECTION

3.02 Rights
of
Lenders.
The
Person
serving
as
the
Administrative
Agent
hereunder
shall
have
the
same
rights
and

powers
in
its
capacity
as
a
Lender
as
any
other
Lender
and
may
exercise
the
same
as
though
it
were
not
the
Administrative
Agent,
and
the
term
“Lender”
or
“Lenders”
shall,
unless
otherwise
expressly
indicated
or
unless
the
context
otherwise
requires,
include
the
Person
serving
as
the
Administrative
Agent
hereunder

in
its
individual
capacity.
Such
Person
and
its
Affiliates
may
accept
deposits
from,
lend
money
to,
own
securities
of,
act
as
the
financial
advisor
or
in
any
other
advisory
capacity
for,
and
generally
engage
in
any
kind
of
business
with,
Borrower
and
its
Affiliates
as
if
such
Person
were
not

the
Administrative
Agent
hereunder
and
without
any
duty
to
account
therefor
to
the
Lenders
or
notice
to
or
consent
of
the
Lenders.
The
Lenders
acknowledge
that,
pursuant
to
such
activities,
such
Person
serving
as
the
Administrative
Agent
hereunder
or
its
Affiliates
may
receive
information
regarding
the
Borrower
and/
or
its

Affiliates
(including
information
that
may
be
subject
to
confidentiality
obligations
in
favor
of
the
Borrower
or
such
Affiliates)
and
acknowledge
that
the
Administrative
Agent
shall
not
be
under
any
obligation
to
provide
such
information
to
them.

SECTION

3.03 Exculpatory Provisions.

(a)

Notwithstanding
any
provision
to
the
contrary
contained
elsewhere
herein

or
in
any
other
Loan
Document,
the
Administrative
Agent
shall
not
have
any
duties
or
obligations
except
those
expressly
set
forth
herein
and
in
the
other
Loan
Documents,
and
its
duties
hereunder
shall
be
administrative
in
nature.
Without
limiting
the
generality
of
the
foregoing,
the
Administrative
Agent:

(i) shall

not

have
any
duties
or
responsibilities,
except
those
expressly
set
forth
herein
or
in
any
other
Loan
Document,
nor
shall
the
Administrative
Agent
have
or
be
deemed
to
have
any
fiduciary
relationship
with
any
Lender,
Participant
or
Secured
Party,
and
no
implied
covenants,
functions,
responsibilities,
duties,
obligations
or
liabilities
shall
be

read
into
this
Agreement
or
any
other
Loan
Document
or
otherwise
exist
against
the
Administrative
Agent,
regardless
of
whether
a
Default
has
occurred
and
is
continuing;

(ii) shall

not
have
any
duty
to
take
any
discretionary
action
or
exercise
any
discretionary
powers,
except
discretionary
rights
and
powers
expressly
contemplated
hereby

or
by
the
other
Loan
Documents
that
the
Administrative
Agent
is
required
to
exercise
as
directed
in
writing
by
the
Required
Lenders
(or
such
other
number
or
percentage
of
the
Lenders
as
shall
be
expressly
provided
for
herein
or
in
the
other
Loan
Documents);
provided
that
the
Administrative
Agent
shall

not
be
required
to
take
any
action
that,
in
its
opinion
or
the
opinion
of
its
counsel,
may
expose
the
Administrative
Agent
to
liability
or
that
is
contrary
to
any
Loan
Document
or
applicable
law,
including
for
the
avoidance
of
doubt
any
action
that
may
be
in
violation
of
the

automatic
stay
under
any
Debtor
Relief
Law
or
that
may
effect
a
forfeiture,
modification
or
termination
of
property
of
a
Defaulting
Lender
in
violation
of
any
Debtor
Relief
Law;
and

(iii) shall

not,
except
as
expressly
set
forth
herein
and
in
the
other
Loan
Documents,
have
any
duty
to
disclose,

and
shall
not
be
liable
for
the
failure
to
disclose,

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any
information
relating
to
Borrower
or
any
of
their
Affiliates
that
is
communicated
to
or
obtained
by
the
Person
serving
as
the
Administrative
Agent
or
any
of
its
Affiliates
in

any
capacity.

(b)

The
Administrative
Agent
shall
not
be
liable
for
any
action
taken
or
not
taken
by
it
under
or
in
connection
with
this
Agreement
or
any
other
Loan
Document
or
the
transactions
contemplated
hereby
or
thereby
(i) with
the
consent
or
at
the
request
of
the
Required
Lenders

(or
such
other
number
or
percentage
of
the
Lenders
as
shall
be
necessary,
or
as
the
Administrative
Agent
shall
believe
in
good
faith
shall
be
necessary,
under
the
circumstances
as
provided
in
Section
9.04
and 7.01),
or
(ii) in
the
absence
of
its
own
gross
negligence
or
willful
misconduct
as
determined
by

a
court
of
competent
jurisdiction
by
final
and
nonappealable
judgment.
The
Administrative
Agent
shall
be
deemed
not
to
have
knowledge
of
any
Default
or
Event
of
Default
unless
and
until
notice
describing
such
Default
is
given
to
the
Administrative
Agent
in
writing
by
Borrower
or
a
Lender.
Phrases
such
as

"satisfactory
to
the
Administrative
Agent",
"approved
by
the
Administrative
Agent",
"acceptable
to
the
Administrative
Agent",
"as
determined
by
the
Administrative
Agent",
"in
the
Administrative
Agent's
discretion",
"selected
by
the
Administrative
Agent",
and
phrases
of
similar
import
authorize
and
permit
the
Administrative
Agent
to
approve,
disapprove,
determine,
act
or
decline
to

act
in
its
discretion,
it
being
understood
that
the
Administrative
Agent
in
exercising
such
discretion
under
the
Loan
Documents
shall
be
acting
on
the
instructions
of
the
Required
Lenders
(or
any
or
all
Lenders
to
the
extent
required
hereunder)
and
shall
be
fully
protected
in,
and
shall
incur
no
liability

in
connection
with,
acting
or
failing
to
(or
failing
to
act
while
awaiting
such
instruction)
pursuant
to
such
instructions.

(c)

The
Administrative
Agent
shall
not
be
responsible
for
or
have
any
duty
to
ascertain
or
inquire
into
(i) any
statement,
warranty
or
representation
made
in
or
in
connection
with
this

Agreement
or
any
other
Loan
Document,
(ii) the
contents
of
any
certificate,
report
or
other
document
delivered
hereunder
or
thereunder
or
in
connection
herewith
or
therewith,
(iii) the
performance
or
observance
of
any
of
the
covenants,
agreements
or
other
terms
or
conditions
set
forth
herein
or
therein
or
as
to
the
use

of
the
proceeds
of
the
Advances
or
of
the
occurrence,
existence
or
possible
existence
of
any
Default
or
Event
of
Default,
(iv) the
effectiveness,
genuineness,
validity,
enforceability,
collectability
or
sufficiency
of
this
Agreement
or
any
Loan
Document
or
for
any
certifications,
representations,
warranties,
recitals
or
statements
made
herein
or
therein
or

made
in
any
written
or
oral
statement
or
in
any
financial
or
other
statements,
instruments,
reports,
certificates
or
any
other
documents
in
connection
herewith
or
therewith
furnished
or
made
by
the
Administrative
Agent
to
the
Lenders
or
by
or
on
behalf
of
the
Borrower
or
any
of
their
respective
Affiliates

to
the
Administrative
Agent
or
any
Lender,
(v) the
satisfaction
of
any
condition
set
forth
in
Article
IV
or
elsewhere
herein,
other
than
to
confirm
receipt
of
items
expressly
required
to
be
delivered
to
the
Administrative
Agent,
(vi)
the
existence,
value
or
collectability
of
the
Collateral,
any
failure
to
monitor
or

maintain
any
part
of
the
Collateral,
any
loss
or
diminution
in
the
value
of
the
Collateral,
or
the
creation,
perfection
or
priority
of
any
Lien,
or
security
interest
created
or
purported
to
be
created
under
the
Loan
Documents,
including
the
Security
Documents,
or
for
any
failure
of
the
Borrower
or

any
other
party
to
any
Loan
Document
to
perform
its
obligations
hereunder
or
thereunder,
(vii)
(A)
any
recording,
filing,
or
depositing
of
this
Agreement,
any
other
Loan
Document
or
any
other
agreement
or
instrument,
monitoring
or
filing
any
financing
statement
or
continuation
statement
evidencing
a
security
interest,
the
maintenance
of

any
such
recording,
filing
or
depositing
or
to
any
re-
recording,
re-
filing
or
re-

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-

depositing
of
any
thereof,
or
otherwise
monitoring
the
perfection,
continuation
of
perfection
or
the
sufficiency
or
validity
of
any
security
interest
in
or
related
to
any

Lien
or
Collateral,
(B)
the
acquisition
or
maintenance
of
any
insurance
or
(D)
the
payment
or
discharge
of
any
tax,
assessment,
or
other
governmental
charge
or
any
lien
or
encumbrance
of
any
kind
owing
with
respect
to,
assessed
or
levied
against,
any
part
of
the
Collateral,
or
(viii)
the
observance

or
performance
of
any
of
the
agreements
contained
in,
or
conditions
of,
this
Agreement
or
any
other
Loan
Document,
or
to
inspect
the
properties,
books
or
records
of
the
Borrower
or
any
of
its
Affiliates.
The
Administrative
Agent
shall
not
be
liable
for
interest
on
any
money
received
by
it

and
any
amounts
on
deposit
with
it
shall
remain
uninvested.

(d)

The
Administrative
Agent
is
hereby
authorized
and
instructed
by
each
Lender
to
execute,
deliver
and
perform
its
obligations
under
the
Reliance
Letters.
Each
Lender
from
time
to
time
party
hereto
agrees
to
be
bound
by
the
terms,
conditions

and
limitations
of
the
Reliance
Letters.

SECTION

3.04 Reliance
by
Administrative
Agent.
The
Administrative
Agent
shall
be
entitled
to
rely
upon,
and
shall
not
incur
any
liability
for
relying
upon,
any
notice,
request,
certificate,
consent,
statement,
instrument,
document
or
other
writing
(including
any
electronic
message,
Internet
or
intranet
website
posting

or
other
distribution)
believed
by
it
to
be
genuine
and
to
have
been
signed,
sent
or
otherwise
authenticated
by
the
proper
Person.
The
Administrative
Agent
also
may
rely
upon
any
statement
made
to
it
orally
or
by
telephone
and
believed
by
it
to
have
been
made
by
the
proper
Person,

and
shall
not
incur
any
liability
for
relying
thereon.
In
determining
compliance
with
any
condition
hereunder
to
the
making
of
the
Advances
that
by
their
terms
must
be
fulfilled
to
the
satisfaction
of
a
Lender,
the
Administrative
Agent
may
presume
that
such
condition
is
satisfactory
to
such
Lender
unless
the

Administrative
Agent
shall
have
received
notice
to
the
contrary
from
such
Lender
prior
to
the
making
of
the
Advances.
The
Administrative
Agent
may
consult
with
legal
counsel
(who
may
be
counsel
for
Borrower),
independent
accountants
and
other
experts
selected
by
it,
and
shall
not
be
liable
for
any
action
taken

or
not
taken
by
it
in
accordance
with
the
advice
of
any
such
counsel,
accountants
or
experts.
The
Administrative
Agent
shall
be
fully
justified
in
failing
or
refusing
to
take
any
action
under
any
Loan
Document
unless
it
shall
first
receive
such
advice,
direction
or
concurrence
of
the
Required
Lenders

as
it
deems
appropriate
and,
if
it
so
requests,
it
shall
first
be
indemnified
to
its
satisfaction
by
the
Lenders
against
any
and
all
liability
and
expense
which
may
be
incurred
by
it
by
reason
of
taking
or
continuing
to
take
any
such
action.
The
Administrative
Agent
shall
in
all

cases
be
fully
protected
in
acting,
or
in
refraining
from
acting,
under
this
Agreement
or
any
other
Loan
Document
in
accordance
with
a
request
or
consent
of
the
Required
Lenders
(or
such
greater
number
of
Lenders
as
may
be
expressly
required
hereby
in
any
instance)
and
such
request
and
any

action
taken
or
failure
to
act
pursuant
thereto
shall
be
binding
upon
all
the
Lenders.
Upon
the
request
by
the
Administrative
Agent
at
any
time
the
Lenders
will
promptly
confirm
in
writing
any
action
taken
or
to
be
taken
by
the
Administrative
Agent.

SECTION

3.05 Delegation
of
Duties.
The
Administrative

Agent
may
perform
any
and
all
of
its
duties
and
exercise
its
rights
and
powers
hereunder
or
under
any
other
Loan
Document
by
or
through
any
one
or
more
sub-
agents,
employees
or
attorneys-
in-
fact
and
shall
be
entitled
to
advice
of
counsel
and
other
consultants
or
experts
concerning

all
matters
pertaining
to
such
duties.
The
Administrative
Agent
and
any
such
sub-
agent
may
perform
any
and
all
of
its
duties
and
exercise
its
rights
and
powers
by
or
through
their
respective
Related
Parties.

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The
exculpatory
provisions
of
this

Article
shall
apply
to
any
such
sub-
agent
or
attorney-
in-
fact
and
to
the
Related
Parties
of
the
Administrative
Agent
and
any
such
sub-
agent,
and
shall
apply
to
their
respective
activities
in
connection
with
the
syndication
(if
any)
of
the
Facilities
as
well
as
activities
as
Administrative
Agent.

The
Administrative
Agent
shall
not
be
responsible
for
the
negligence
or
misconduct
(including
gross
negligence
or
willful
misconduct)
of
any
sub-
agent
or
attorney-
in-
fact
that
it
selects
in
the
absence
of
bad
faith,
gross
negligence
or
willful
misconduct
(as
determined
in
the
final
non-
appealable
judgment
of
a

court
of
competent
jurisdiction)
in
the
selection
of
such
sub-
agents
or
attorneys-
in-
fact.

SECTION

3.06 Resignation
of
Administrative
Agent.

(a)

The
Administrative
Agent
may
at
any
time
give
notice
of
its
resignation
to
the
Lenders
and
Borrower.
Upon
receipt
of
any
such
notice
of
resignation,
the
Required
Lenders

shall
have
the
right,
in
consultation
with
Borrower
and,
so
long
as
no
Event
of
Default
has
occurred
and
is
continuing,
subject
to
Borrower's
written
consent
(not
to
be
unreasonably
withheld
or
delayed),
to
appoint
a
successor,
which
shall
be
a
bank
with
an
office
in
New
York,
New
York,

or
an
Affiliate
of
any
such
bank
with
an
office
in
New
York,
New
York.
If
no
such
successor
shall
have
been
so
appointed
by
the
Required
Lenders
and
shall
have
accepted
such
appointment
within 30 days
after
the
retiring
Administrative
Agent
gives
notice
of
its
resignation
(or
such
earlier
day
as

shall
be
agreed
by
the
Required
Lenders)
(the
"Resignation
Effective
Date"),
then
the
retiring
Administrative
Agent
may
(but
shall
not
be
obligated
to),
on
behalf
of
the
Lenders,
appoint
a
successor
agent
meeting
the
qualifications
set
forth
above
and,
so
long
as
no
Event
of
Default
has
occurred
and
is

continuing,
subject
to
Borrower's
written
consent
(not
to
be
unreasonably
withheld
or
delayed).
Whether
or
not
a
successor
has
been
appointed,
such
resignation
shall
become
effective
in
accordance
with
such
notice
on
the
Resignation
Effective
Date.
If
the
Person
serving
as
Administrative
Agent
is
a
Defaulting
Lender
pursuant
to
clause (d).

of
the
definition
thereof,
the
Required
Lenders
may,
to
the
extent
permitted
by
applicable
law,
by
notice
in
writing
to
Borrower
and
such
Person
remove
such
Person
as
Administrative
Agent
and,
in
consultation
with
Borrower,
appoint
a
successor.
If
no
such
successor
shall
have
been
so
appointed
by
the
Required

Lenders
and
shall
have
accepted
such
appointment
within 30 days
(or
such
earlier
day
as
shall
be
agreed
by
the
Required
Lenders)
(the
"Removal
Effective
Date"),
then
such
removal
shall
nonetheless
become
effective
in
accordance
with
such
notice
on
the
Removal
Effective
Date.

(b)

With
effect
from
the
Resignation
Effective
Date

or
the
Removal
Effective
Date
(as
applicable)
(1) the
retiring
or
removed
Administrative
Agent
shall
be
discharged
from
its
duties
and
obligations
hereunder
and
under
the
other
Loan
Documents
as
the
Administrative
Agent
and
(2) except
for
any
indemnity
payments
owed
to
the
retiring
or
removed
Administrative
Agent,
all
payments,
communications
and

determinations
provided
to
be
made
by,
to
or
through
the
Administrative
Agent
shall
instead
be
made
by
or
to
each
Lender
directly,
until
such
time,
if
any,
as
the
Required
Lenders
appoint
a
successor
agent
as
provided
for
above.
Upon
the
acceptance
of
a
successor's
appointment
as
Administrative
Agent
hereunder,

such
successor
shall
succeed
to
and
become
vested
with
all
of
the
rights,
powers,
privileges
and
duties
of
the
retiring
or
removed
Administrative
Agent
(other
than
any
rights
to
indemnity
payments
owed
to
the
retiring
or
removed
Administrative
Agent),
and
the
retiring
or
removed
Administrative
Agent
shall
be
discharged
from

all
of
its
duties
and
obligations
hereunder
or
under
the
other
Loan
Documents.
The
fees
payable
by
Borrower
to
a
successor
agent
shall
be
the
same
as
those
payable
to
its

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predecessor
unless
otherwise
agreed
between
Borrower
and
such
successor.
After

the
retiring
or
removed
Administrative
Agent's
resignation
or
removal
hereunder
and
under
the
other
Loan
Documents,
the
provisions
of
this
Article
and
Section
3.02,
Section
3.03(c),
Section
3.05(c),
Section
3.05(d),
and
Section
9.02
shall
continue
in
effect
for
the
benefit
of
such
retiring
or
removed
Administrative
Agent,
its
sub-
agents

and
their
respective
Related
Parties
in
respect
of
any
actions
taken
or
omitted
to
be
taken
by
any
of
them
while
the
retiring
or
removed
Administrative
Agent
was
acting
as
Administrative
Agent.

SECTION

3.07Non-
Reliance
on
Administrative
Agent
and
Other
Lenders.
Each
Lender
acknowledges
and
represents
that
it
has,

independently
and
without
reliance
upon
the
Administrative
Agent
or
any
other
Lender
or
any
of
their
Related
Parties
and
based
on
such
documents
and
information
as
it
has
deemed
appropriate,
made
its
own
credit
analysis
and
decision
to
enter
into
this
Agreement.
Each
Lender
also
acknowledges
that
it
will,
independently

and
without
reliance
upon
the
Administrative
Agent
or
any
other
Lender
or
any
of
their
Related
Parties
and
based
on
such
documents
and
information
as
it
shall
from
time
to
time
deem
appropriate,
continue
to
make
its
own
decisions
in
taking
or
not
taking
action
under
or
based
upon
this

Agreement,
any
other
Loan
Document
or
any
related
agreement
or
any
document
furnished
hereunder
or
thereunder.

SECTION

3.08 Withholding
Taxes.
To
the
extent
required
by
applicable
law,
the
Administrative
Agent
may
withhold
from
any
payment
to
any
Lender
an
amount
equivalent
to
any
applicable
withholding
Tax.
Without
limiting
or
expanding

the
provisions
of
Section
3.05,
each
Lender
shall
indemnify
and
hold
harmless
the
Administrative
Agent
against,
and
shall
make
payable
in
respect
thereof
within 15 days
after
demand
therefor,
any
and
all
Taxes
and
related
losses,
claims,
liabilities
and
expenses
(including
fees,
charges
and
disbursements
of
any
counsel
for
the
Administrative
Agent)

incurred
by
or
asserted
against
the
Administrative
Agent
by
the
IRS
or
any
other
Governmental
Authority
as
a
result
of
the
failure
of
the
Administrative
Agent
to
properly
withhold
Taxes
from
amounts
paid
to
or
for
the
account
of
such
Lender
for
any
reason
(including
because
the
appropriate
form
was

not
delivered
or
not
properly
executed,
or
because
such
Lender
failed
to
notify
the
Administrative
Agent
of
a
change
in
circumstances
that
rendered
the
exemption
from,
or
reduction
of
applicable
withholding
Taxes
ineffective).
A
certificate
as
to
the
amount
of
such
payment
or
liability
delivered
to
any
Lender
by
the

Administrative
Agent
shall
be
conclusive
absent
manifest
error.
Each
Lender
hereby
authorizes
the
Administrative
Agent
to
set
off
and
apply
any
and
all
amounts
owing
to
such
Lender
under
the
Loan
Documents
against
any
amount
due
to
the
Administrative
Agent
under
this
Section
8.08.
The
agreements
in
this
Section
8.08

shall
survive
the
resignation
and/or
replacement
of
the
Administrative
Agent,
any
assignment
of
rights
by,
or
the
replacement
of,
a
Lender,
and
the
repayment,
satisfaction
or
discharge
of
all
other
Obligations.
This
Section
8.08
shall
not
impose
any
additional
responsibility
on
Borrower.

SECTION

3.09 Administrative
Agent
May
File
Proof
of

Claim.
In
case
of
the
pendency
of
any
proceeding
under
any
Debtor
Relief
Law
or
any
other
judicial
proceeding
relative
to
Borrower,
the
Administrative
Agent
(irrespective
of
whether
the
principal
of
the
Advances
shall
then
be
due
and
payable
as
herein
expressed
or
by
declaration
or
otherwise
and
irrespective
of

whether
the
Administrative
Agent
shall
have
made
any
demand
on
Borrower)

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shall
be
entitled
and
empowered
(but
not
obligated)
by
intervention
in
such
proceeding
or
otherwise:

(a)

to
file
and
prove
a
claim
for
the
whole
or
any
amount
of

the
principal
and
interest
owing
and
unpaid
in
respect
of
the
Advances
and
all
other
Obligations
that
are
owing
and
unpaid
and
to
file
such
other
documents
as
may
be
necessary
or
advisable
in
order
to
have
the
claims
of
the
Lenders
and
the
Administrative
Agent
(including
any
claim
for

the
reasonable
compensation,
expenses,
disbursements
and
advances
of
the
Lenders
and
the
Administrative
Agent
and
their
respective
agents
and
counsel
and
all
other
amounts
due
the
Lenders
and
the
Administrative
Agent
under
Section
3.02,
Section
3.03(c),
Section
3.05(c),
Section
3.05(d),
and
Section
9.02)
allowed
in
such
judicial
proceeding;
and

(b)

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

and
any
custodian,
receiver,
assignee,
trustee,
liquidator,
sequestrator
or
other
similar
official
in
any
such
judicial
proceeding
is
hereby
authorized
by
each
Lender
to
make
such
payments

to
the
Administrative
Agent
and,
in
the
event
that
the
Administrative
Agent
shall
consent
to
the
making
of
such
payments
directly
to
the
Lenders,
to
pay
to
the
Administrative
Agent
any
amount
due
for
the
reasonable
compensation,
expenses,
disbursements
and
advances
of
the
Administrative
Agent
and
its
agents
and
counsel,

and
any
other
amounts
due
the
Administrative
Agent
under
Section
3.02
and
Section
9.02.

SECTION

3.10 Collateral
Matters.

(a)

In
the
event
that
Borrower
Disposes
of
all
or
any
portion
of
any
of
its
assets
to
any
Person
(other
than
Borrower)
in
a
transaction
permitted
by
Section
6.02(e),
any
Lien

created
by
any
Loan
Document
in
respect
of
such
assets
shall
be
automatically
released
and
the
Collateral
Agent
shall
promptly
(and
the
Secured
Parties
party
to
this
Agreement
hereby
authorize
the
Collateral
Agent
to)
take
such
action
and
execute
any
such
documents
as
may
be
reasonably
requested
by
Borrower
and

at
Borrower'
expense
to
evidence
such
release.
In
addition,
if
Borrower
enters
into
any
lease
or
sublease
with,
or
grants
any
easement,
right-
of-
way,
permit,
license,
restriction
or
the
like
to,
any
Person
in
a
transaction
permitted
by
Section
6.02(a),
the
Collateral
Agent
may
(and
the
Lenders
hereby
authorize

the
Collateral
Agent
to)
take
such
action
and
execute
any
such
documents
as
may
be
reasonably
requested
by
Borrower
and
at
Borrower'
expense
to
subordinate
any
Liens
created
by
any
Loan
Document
with
respect
to
such
lease,
sublease,
easement,
right-
of-
way,
permit,
license,
restriction
or
the
like
to
such

Person.
In
connection
with
any
such
transaction,
the
Collateral
Agent
may
rely
conclusively
(and
without
further
inquiry)
on
a
certificate
provided
to
it
upon
its
reasonable
request
by
Borrower
to
the
effect
that
such
transaction
is
permitted
by
Section
6.02(a).

(b)

The
Administrative
Agent
shall
not
be
responsible
for

or
have
a
duty
to
ascertain
or
inquire
into
any
representation
or
warranty
regarding
the
existence,
value
or
collectability
of
the
Collateral,
the
existence,
priority
or
perfection
of
the
Administrative
Agent's
Lien
thereon,
or
any
certificate
prepared
by
Borrower
in
connection
therewith,
nor
shall
the
Administrative
Agent
be
responsible
or

liable
to
the
Lenders
for
any
failure
to
monitor
or
maintain
any
portion
of
the
Collateral.

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SECTION

3.11 Erroneous Payment.

(a)

If
the
Administrative
Agent
notifies
a
Lender
or
any
Person
who
has
received
funds
on
behalf
of
a
Lender
(any

such
Lender
or
other
recipient,
a
"Payment
Recipient"),
that
the
Administrative
Agent
has
determined
in
its
sole
discretion
(whether
or
not
after
receipt
of
any
notice
under
immediately
succeeding
clause
(b))
that
any
funds
(as
set
forth
in
such
notice
from
the
Administrative
Agent)
received
by
such
Payment
Recipient
from

the
Administrative
Agent
or
any
of
its
Affiliates
were
erroneously
transmitted
to,
or
otherwise
erroneously
or
mistakenly
received
by,
such
Payment
Recipient
(whether
or
not
known
to
such
Lender
or
other
Payment
Recipient
on
its
behalf)
(any
such
funds,
whether
received
as
a
payment,
prepayment
or
repayment
of
principal,
interest,

fees,
distribution
or
otherwise,
individually
and
collectively,
an
"Erroneous
Payment")
and
demands
the
return
of
such
Erroneous
Payment
(or
a
portion
thereof),
such
Erroneous
Payment
shall
at
all
times
remain
the
property
of
the
Administrative
Agent
and
shall
be
segregated
by
the
Payment
Recipient
and
held
in
trust
for
the

benefit
of
the
Administrative
Agent,
and
such
Lender
shall
(or,
with
respect
to
any
Payment
Recipient
who
received
such
funds
on
its
behalf,
shall
cause
such
Payment
Recipient
to)
promptly,
but
in
no
event
later
than
two
Business
Days
thereafter,
return
to
the
Administrative
Agent
the
amount
of
any
such

Erroneous
Payment
(or
portion
thereof)
as
to
which
such
a
demand
was
made,
in
same
day
funds
(in
the
currency
so
received),
together
with
interest
thereon
in
respect
of
each
day
from
and
including
the
date
such
Erroneous
Payment
(or
portion
thereof)
was
received
by
such
Payment
Recipient
to
the

date
such
amount
is
repaid
to
the
Administrative
Agent
in
same
day
funds
at
the
greater
of
the
Federal
Funds
Effective
Rate
and
a
rate
determined
by
the
Administrative
Agent
in
accordance
with
banking
industry
rules
on
interbank
compensation
from
time
to
time
in
effect.
A
notice
of
the
Administrative

Agent
to
any
Payment
Recipient
under
this
clause
(a)
shall
be
conclusive,
absent
manifest
error.

(b)

Without
limiting
the
immediately
preceding
clause
(a),
each
Lender
or
any
Person
who
has
received
funds
on
behalf
of
a
Lender,
hereby
further
agrees
that
if
it
receives
a
payment,
prepayment
or
repayment

(whether
received
as
a
payment,
prepayment
or
repayment
of
principal,
interest,
fees,
distribution
or
otherwise)
from
the
Administrative
Agent
(or
any
of
its
Affiliates)
(x)
that
is
in
a
different
amount
than,
or
on
a
different
date
from,
that
specified
in
a
notice
of
payment,
prepayment
or
repayment
sent
by

the
Administrative
Agent
(or
any
of
its
Affiliates)
with
respect
to
such
payment,
prepayment
or
repayment,
(y)
that
was
not
preceded
or
accompanied
by
a
notice
of
payment,
prepayment
or
repayment
sent
by
the
Administrative
Agent
(or
any
of
its
Affiliates),
or
(z)
that
such
Lender,
or
other
such
recipient,

otherwise
becomes
aware
was
transmitted,
or
received,
in
error
or
by
mistake
(in
whole
or
in
part)
in
each
case:

(i)

(A)
in
the
case
of
immediately
preceding
clauses
(X)
or
(Y),
an
error
and
mistake
shall
be
presumed
to
have
been
made
(absent
written
confirmation
from
the
Administrative

Agent
to
the
contrary)
or
(B)
an
error
and
mistake
has
been
made
(in
the
case
of
immediately
preceding
clause
(z)),
in
each
case,
with
respect
to
such
payment,
prepayment
or
repayment;
and

(ii) Lender

shall
(and
shall
cause
any
other
recipient
that
receives
funds
on
its
respective
behalf
to)

promptly
(and,
in
all
events,
within
one
Business
Day
of
its
knowledge
of
the
occurrence
of
any
of
the
circumstances
described
in
immediately
preceding
clauses
(x),
(y)
and
(z))
notify
the
Administrative
Agent
of
its
receipt
of
such

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■

payment,
prepayment
or

repayment,
the
details
thereof
(in
reasonable
detail)
and
that
it
is
so
notifying
the
Administrative
Agent
pursuant
to
this
Section
8.11(b).

For

the
avoidance
of
doubt,
the
failure
to
deliver
a
notice
to
the
Administrative
Agent
pursuant
to
this
Section
8.11(b)
shall
not
have
any
effect
on
a
Payment

Recipient's
obligations
pursuant
to
Section
8.11(a).
or
on
whether
or
not
an
Erroneous
Payment
has
been
made.

(c)

Each
Lender
hereby
authorizes
the
Administrative
Agent
to
set
off,
net
and
apply
any
and
all
amounts
at
any
time
owing
to
such
Lender
under
any
Loan
Document,
or
otherwise
payable

or
distributable
by
the
Administrative
Agent
to
such
Lender
under
any
Loan
Document
with
respect
to
any
payment
of
principal,
interest,
fees
or
other
amounts,
against
any
amount
that
the
Administrative
Agent
has
demanded
to
be
returned
under
immediately
preceding
clause
(a).

(d)

(i)
In
the
event
that
an

Erroneous
Payment
(or
portion
thereof)
is
not
recovered
by
the
Administrative
Agent
for
any
reason,
after
demand
therefor
in
accordance
with
immediately
preceding
clause
(a),
from
any
Lender
that
has
received
such
Erroneous
Payment
(or
portion
thereof)
(and/or
from
any
Payment
Recipient
who
received
such
Erroneous
Payment
(or
portion
thereof)

on
its
respective
behalf)
(such
unrecovered
amount,
an
"Erroneous
Payment
Return
Deficiency"),
upon
the
Administrative
Agent's
notice
to
such
Lender
at
any
time,
then
effective
immediately
(with
the
consideration
therefor
being
acknowledged
by
the
parties
hereto),
(A)
such
Lender
shall
be
deemed
to
have
assigned
its
Advances
(but
not
its

Commitments)
with
respect
to
which
such
Erroneous
Payment
was
made
(the
"Erroneous
Payment
Impacted
Class")
in
an
amount
equal
to
the
Erroneous
Payment
Return
Deficiency
(or
such
lesser
amount
as
the
Administrative
Agent
may
specify)
(such
assignment
of
the
Advances
(but
not
Commitments)
of
the
Erroneous
Payment
Impacted
Class,
the

"Erroneous
Payment
Deficiency
Assignment")
(on
a
cashless
basis
and
such
amount
calculated
at
par
plus
any
accrued
and
unpaid
interest
(with
the
assignment
fee
to
be
waived
by
the
Administrative
Agent
in
such
instance)),
and
is
hereby
(together
with
Borrower)
deemed
to
execute
and
deliver
an
Assignment
and
Assumption
with

respect
to
such
Erroneous
Payment
Deficiency
Assignment,
and
such
Lender
shall
deliver
any
Notes
evidencing
such
Advances
to
Borrower
or
the
Administrative
Agent
(but
the
failure
of
such
Person
to
deliver
any
such
Notes
shall
not
affect
the
effectiveness
of
the
foregoing
assignment),
(B)
the
Administrative
Agent
as
the
assignee

Lender
shall
be
deemed
to
have
acquired
the
Erroneous
Payment
Deficiency
Assignment,
(C)
upon
such
deemed
acquisition,
the
Administrative
Agent
as
the
assignee
Lender
shall
become
a
Lender,
as
applicable,
hereunder
with
respect
to
such
Erroneous
Payment
Deficiency
Assignment
and
the
assigning
Lender
shall
cease
to
be
a
Lender,
as

applicable,
hereunder
with
respect
to
such
Erroneous
Payment
Deficiency
Assignment,
excluding,
for
the
avoidance
of
doubt,
its
obligations
under
the
indemnification
provisions
of
this
Agreement
and
its
applicable
Commitments
which
shall
survive
as
to
such
assigning
Lender,
(D)
the
Administrative
Agent
and
the
Borrower
shall
each
be
deemed
to
have

waived
any
consents
required
under
this
Agreement
to
any
such
Erroneous
Payment
Deficiency
Assignment,
and
(E)
the
Administrative
Agent
will
reflect
in
the
Register
its
ownership
interest
in
the
Advances
subject
to
the
Erroneous
Payment
Deficiency
Assignment.
For
the
avoidance
of
doubt,
no
Erroneous
Payment
Deficiency
Assignment
will
reduce
the

Commitments
of
any
Lender
and
such
Commitments
shall
remain
available
in
accordance
with
the
terms
of
this
Agreement.

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-

(e)
Subject
to
Section
9.05
(but
excluding,
in
all
events,
any
assignment
consent
or
approval
requirements
(whether
from
the
Borrower
or

otherwise)),
the
Administrative
Agent
may,
in
its
discretion,
sell
any
Advances
acquired
pursuant
to
an
Erroneous
Payment
Deficiency
Assignment
and
upon
receipt
of
the
proceeds
of
such
sale,
the
Erroneous
Payment
Return
Deficiency
owing
by
the
applicable
Lender
shall
be
reduced
by
the
net
proceeds
of
the
sale
of
such

Loan
(or
portion
thereof),
and
the
Administrative
Agent
shall
retain
all
other
rights,
remedies
and
claims
against
such
Lender
(and/or
against
any
recipient
that
receives
funds
on
its
respective
behalf).
In
addition,
an
Erroneous
Payment
Return
Deficiency
owing
by
the
applicable
Lender
(x)
shall
be
reduced
by
the
proceeds
of

prepayments
or
repayments
of
principal
and
interest,
or
other
distribution
in
respect
of
principal
and
interest,
received
by
the
Administrative
Agent
on
or
with
respect
to
any
such
Advances
acquired
from
such
Lender
pursuant
to
an
Erroneous
Payment
Deficiency
Assignment
(to
the
extent
that
any
such
Advances
are
then
owned

by
the
Administrative
Agent)
and
(y)
may,
in
the
sole
discretion
of
the
Administrative
Agent,
be
reduced
by
any
amount
specified
by
the
Administrative
Agent
in
writing
to
the
applicable
Lender
from
time
to
time.

(f)

The
parties
hereto
agree
that
(x)
irrespective
of
whether
the
Administrative
Agent
may

be
equitably
subrogated,
in
the
event
that
an
Erroneous
Payment
(or
portion
thereof)
is
not
recovered
from
any
Payment
Recipient
that
has
received
such
Erroneous
Payment
(or
portion
thereof)
for
any
reason,
the
Administrative
Agent
shall
be
subrogated
to
all
the
rights
and
interests
of
such
Payment
Recipient
(and,
in

the
case
of
any
Payment
Recipient
who
has
received
funds
on
behalf
of
a
Lender
or
Secured
Party,
to
the
rights
and
interests
of
such
Lender
or
Secured
Party,
as
the
case
may
be)
under
the
Loan
Documents
with
respect
to
such
amount
(the
"Erroneous
Payment
Subrogation
Rights")
(provided
that

the
Borrower's
Obligations
under
the
Loan
Documents
in
respect
of
the
Erroneous
Payment
Subrogation
Rights
shall
not
be
duplicative
of
such
Obligations
in
respect
of
Advances
that
have
been
assigned
to
the
Administrative
Agent
under
an
Erroneous
Payment
Deficiency
Assignment)
and
(y)
an
Erroneous
Payment
shall
not
pay,
prepay,
repay,

discharge
or
otherwise
satisfy
any
Obligations
owed
by
the
Borrower,
provided
that
this
Section
8.11
shall
not
be
interpreted
to
increase
(or
accelerate
the
due
date
for),
or
have
the
effect
of
increasing
(or
accelerating
the
due
date
for),
the
Obligations
of
the
Borrower
relative
to
the
amount
(and/or
timing

for
payment)
of
the
Obligations
that
would
have
been
payable
had
such
Erroneous
Payment
not
been
made
by
the
Administrative
Agent;
provided,
further,
that
for
the
avoidance
of
doubt,
immediately
preceding
clauses
(x).
and
(y).
shall
not
apply
to
the
extent
any
such
Erroneous
Payment
is,
and
solely
with
respect

to
the
amount
of
such
Erroneous
Payment
that
is,
comprised
of
funds
received
by
the
Administrative
Agent
from
the
Borrower
for
the
purpose
of
making
such
Erroneous
Payment.

(g)

To
the
extent
permitted
by
applicable
law,
no
Payment
Recipient
shall
assert
any
right
or
claim
to
an
Erroneous
Payment,

and
hereby
waives,
and
is
deemed
to
waive,
any
claim,
counterclaim,
defense
or
right
of
set-
off
or
recoupment
with
respect
to
any
demand,
claim
or
counterclaim
by
the
Administrative
Agent
for
the
return
of
any
Erroneous
Payment
received,
including,
without
limitation,
any
defense
based
on
"discharge
for
value"
or

any
similar
doctrine.

(h)

Each
party's
obligations,
agreements
and
waivers
under
this
Section
8.11
shall
survive
the
resignation
or
replacement
of
the
Administrative
Agent,
any
transfer
of
rights
or
obligations
by,
or
the
replacement
of,
a
Lender
the
termination
of
the
Commitments
and/or
the

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■

repayment,
satisfaction
or
discharge
of
all
Obligations
(or
any
portion
thereof)
under
any
Loan
Document.

SECTION

3.12 Certain
ERISA
Matters.

(a)

Each
Lender
(x)
represents
and
warrants,
as
of
the
date
such
Person
became
a
Lender
party
hereto,
to,
and
(y)
covenants,
from
the
date
such
Person

became
a
Lender
party
hereto
to
the
date
such
Person
ceases
being
a
Lender
party
hereto,
for
the
benefit
of,
the
Administrative
Agent
and
not,
for
the
avoidance
of
doubt,
to
or
for
the
benefit
of
the
Borrower,
that
at
least
one
of
the
following
is
and
will
be
true:

(i) such

Lender
is
not
using
“plan
assets”
(within
the
meaning
of
Section
3(42)
of
ERISA
or
otherwise
for
purposes
of
Title
I
of
ERISA
or
Section
4975
of
the
Internal
Revenue
Code)
of
one
or
more
Benefit
Plans
with
respect
to
such
Lender’s
entrance
into,
participation
in,
administration
of
and

performance
of
the
Advances,
the
Commitments
or
this
Agreement,

(ii) the

prohibited
transaction
exemption

set
forth

in
one

or
more

PTEs,
such

as
PTE

84-
14

(a
class

exemption
for

certain
transactions

determined
by

independent
qualified

professional
asset

managers),
PTE

95-
60

(a
class

exemption
for

certain
transactions

involving
insurance

company
general
accounts),
PTE
90-
1
(a
class
exemption
for
certain
transactions
involving
insurance
company
pooled
separate
accounts),
PTE
91-
38
(a
class
exemption
for
certain
transactions
involving
bank
collective
investment
funds)
or
PTE
96-
23
(a
class
exemption
for
certain
transactions
determined
by
in-
house
asset
managers),
is
applicable

so
as
to
exempt
from
the
prohibitions
of
Section
406
of
ERISA
and
Section
4975
of
the
Internal
Revenue
Code
such
Lender's
entrance
into,
participation
in,
administration
of
and
performance
of
the
Advances,
the
Commitments
and
this
Agreement,

(iii)

(A)
such
Lender
is
an
investment
fund
managed
by
a

“Qualified
Professional
Asset
Manager”
(within
the
meaning
of
Part
VI
of
PTE
84-
14),
(B)
such
Qualified
Professional
Asset
Manager
made
the
investment
decision
on
behalf
of
such
Lender
to
enter
into,
participate
in,
administer
and
perform
the
Advances,
the
Commitments
and
this
Agreement,
(C)
the
entrance
into,
participation
in,

administration
of
and
performance
of
the
Advances,
the
Commitments
and
this
Agreement
satisfies
the
requirements
of
sub-
sections
(b)
through
(g)
of
Part
I
of
PTE
84-
14
and
(D)
to
the
best
knowledge
of
such
Lender,
the
requirements
of
subsection
(a)
of
Part
I
of
PTE
84-
14
are

satisfied
with
respect
to
such
Lender's
entrance
into,
participation
in,
administration
of
and
performance
of
the
Advances,
the
Commitments
and
this
Agreement,
or

(iv) such

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

(b)

In
addition,

unless
either
(1)
sub-
clause
(i)
in
the
immediately
preceding
clause
(a)
is
true
with
respect
to
a
Lender
or
(2)
a
Lender
has
provided
another
representation,
warranty
and
covenant
in
accordance
with
sub-
clause
(iv)
in
the
immediately
preceding
clause
(a),
such
Lender
further
(x)
represents
and
warrants,
as

of
the
date
such
Person
became
a
Lender
party

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■

hereto,
and
(y)
covenants,
from
the
date
such
Person
became
a
Lender
party
hereto
to
the
date
such
Person
ceases
being
a
Lender
party
hereto,
for
the
benefit
of,
the
Administrative
Agent

and
not,
for
the
avoidance
of
doubt,
to
or
for
the
benefit
of
the
Borrower,
that
the
Administrative
Agent
is
not
a
fiduciary
with
respect
to
the
assets
of
such
Lender
involved
in
such
Lender's
entrance
into,
participation
in,
administration
of
and
performance
of
the
Advances,
the
Commitments
and
this

Agreement
(including
in
connection
with
the
reservation
or
exercise
of
any
rights
by
the
Administrative
Agent
under
this
Agreement,
any
Loan
Document
or
any
documents
related
hereto
or
thereto).

ARTICLE IV

MISCELLANEOUS

SECTION

4.01 Notices.

(a)

Notices
Generally.
Except
in
the
case
of
notices
and
other
communications
expressly

permitted
to
be
given
by
telephone
(and
except
as
provided
in
paragraph (b).
below),
all
notices
and
other
communications
provided
for
herein
shall
be
in
writing
and
shall
be
faxed
or
delivered
by
an
internationally
recognized
courier
service
to
the
applicable
address,
facsimile
number
or
electronic
mail
address
(provided
that
any

material
notice
shall
also
be
delivered
by
overnight
courier)
delivered
as
follows:

(i) if

to
Borrower
or
Holdings,
to
it
at:

Montana
Renewables,
LLC
2780
Waterfront
Pkwy.
E.
Dr.,
Suite
200
Indianapolis,
IN
46214
Attention:
Greg
Morical
Telephone:
(317)
328-
5660
Email:
greg.morical@calumetspecialty.com

with
a
copy
to:

Norton
Rose
Fulbright
US
LLP
1301
McKinney,
Suite
5100
Houston,
TX
77010-
3095
Attention:
Josh
Agrons
Telephone:
(713)
651-
5529
Email:
josh.agrons@nortonrosefulbright.com

(ii)if

to
the
Administrative
Agent,
to
it
at
its
address
(or
facsimile
number)
set
forth
in
Schedule
9.01(a);

(iii)if

to
a
Lender,
to
it
at
its

address
(or
facsimile
number)
set
forth
in
its
Administrative
Questionnaire.

Notices

sent
by
hand
or
internationally
recognized
courier
service
shall
be
deemed
to
have
been
given
when
received;
notices
sent
by
facsimile
shall
be
deemed
to
have
been
given

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■

when
sent
(except
that,
if
not
given
during
normal
business
hours
for
the
recipient,
shall
be
deemed
to
have
been
given
at
the
opening
of
business
on
the
next
Business
Day
for
the
recipient).
Notices
delivered
through
electronic
communications,
to
the
extent
provided
in
paragraph (b).
below,
shall
be
effective
as

provided
in
said
paragraph (b).

(b)

Electronic
Communications.
Notices
and
other
communications
to
the
Lenders
hereunder
may
be
delivered
or
furnished
by
electronic
communication
(including
e
mail
and
Internet
or
intranet
websites)
pursuant
to
procedures
approved
by
the
Administrative
Agent,
provided
that
the
foregoing
shall
not
apply
to
notices
to

any
Lender
pursuant
to
Article
II
if
such
Lender
has
notified
the
Administrative
Agent
that
it
is
incapable
of
receiving
notices
under
such
Article
by
electronic
communication.
The
Administrative
Agent
may,
in
its
discretion,
agree
to
accept
notices
and
other
communications
to
it
hereunder
by
electronic
communications
pursuant
to
procedures

approved
by
it;
provided
that
approval
of
such
procedures
may
be
limited
to
particular
notices
or
communications.

Unless

the
Administrative
Agent
otherwise
prescribes,
(i) notices
and
other
communications
sent
to
an
e-
mail
address
shall
be
deemed
received
upon
the
sender's
receipt
of
an
acknowledgment
from
the
intended
recipient
(such

as
by
the
"return
receipt
requested"
function,
as
available,
return
e-
mail
or
other
written
acknowledgment),
and
(ii) notices
or
communications
posted
to
an
Internet
or
intranet
website
shall
be
deemed
received
upon
the
deemed
receipt
by
the
intended
recipient,
at
its
e-
mail
address
as
described
in
the
foregoing
clause (i).

of
notification
that
such
notice
or
communication
is
available
and
identifying
the
website
address
therefor;
provided
that,
for
both
clauses (i).
and
(ii)
above,
if
such
notice,
email
or
other
communication
is
not
sent
during
the
normal
business
hours
of
the
recipient,
such
notice
or
communication
shall
be
deemed
to
have

been
sent
at
the
opening
of
business
on
the
next
Business
Day
for
the
recipient.

(c)

Change
of
Address,
etc.
Any
party
hereto
may
change
its
address
or
facsimile
number
for
notices
and
other
communications
hereunder
by
notice
to
the
other
parties
hereto.

(d)

Platform.

(i)Borrower

agrees
that

the
Administrative
Agent
may,
but
shall
not
be
obligated
to,
make
the
Communications
(as
defined
below)
available
to
the
Lenders
by
posting
the
Communications
on
Debt
Domain,
Intralinks,
Syndtrak
or
a
substantially
similar
electronic
transmission
system
(the
"Platform").

(ii) The

Platform
is
provided
"as
is"
and
"as
available."
The
Agent

Parties
(as
defined
below)
do
not
warrant
the
adequacy
of
the
Platform
and
expressly
disclaim
liability
for
errors
or
omissions
in
the
Communications.
No
warranty
of
any
kind,
express,
implied
or
statutory,
including
any
warranty
of
merchantability,
fitness
for
a
particular
purpose,
non-
infringement
of
third-
party
rights
or
freedom

from
viruses
or
other
code
defects,
is
made
by
any
Agent
Party
in
connection
with
the
Communications
or
the
Platform.
In
no
event
shall
the
Administrative
Agent
or
any
of
its
Related
Parties
(collectively,
the
"Agent
Parties")
have
any
liability
to
Borrower,
any
Lender
or
any
other
Person
or
entity

for
damages
of
any
kind,
including
direct
or
indirect,
special,
incidental
or
consequential
damages,
losses
or
expenses
(whether
in
tort,
contract
or
otherwise)
arising

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out
of
Borrower's,
or
the
Administrative
Agent's
transmission
of
communications
through
the
Platform.
"Communications"
means,
collectively,
any

notice,
demand,
communication,
information,
document
or
other
material
provided
by
or
on
behalf
of
Borrower
pursuant
to
any
Loan
Document
or
the
transactions
contemplated
therein
which
is
distributed
to
the
Administrative
Agent
or
any
Lender
by
means
of
electronic
communications
pursuant
to
this
Section
9.01,
including
through
the
Platform.

SECTION

4.02 Expenses.
Indemnity.
Damage
Waiver.

(a)

Costs
and
Expenses.
Borrower
shall
pay
(i) all
reasonable
and
documented
out-
of-
pocket
expenses
incurred
by
the
Administrative
Agent,
the
Lenders
and
their
Affiliates
(limited
in
the
case
of
legal
fees
to
the
reasonable
and
documented
out-
of-
pocket
fees,
charges
and
disbursements

of
one
financing
counsel
for
the
Administrative
Agent
plus
one
local
counsel
in
each
applicable
jurisdiction
in
which
the
Collateral
is
located),
in
connection
with
the
preparation,
negotiation,
execution,
delivery
and
administration
of
this
Agreement
and
the
other
Loan
Documents,
or
any
amendments,
modifications
or
waivers
of
the
provisions
hereof

or
thereof,
(ii) all
reasonable
and
documented
out-
of-
pocket
expenses
incurred
by
the
Administrative
Agent
or
any
Lender
(including
the
reasonable
and
documented
out-
of-
pocket
legal
expenses
of
one
firm
of
counsel
for
the
Administrative
Agent
or
any
Lender,
collectively,
plus
(if
applicable)
one
local
counsel
in
each
applicable

*jurisdiction
in
which
the
Collateral
is
located
for
all
such
persons
and,
in
the
case
of
a
conflict
of
interest
between
such
persons,
one
additional
counsel
in
each
relevant
jurisdiction
to
each
group
of
such
affected
persons
similarly
situated
taken
as
a
whole),
in
connection
with
the
enforcement
or
protection*

of
its
rights
in
connection
with
this
Agreement
and
the
other
Loan
Documents,
including
its
rights
under
this
Section
9.02.

(b)

Indemnification
by
Borrower.
Borrower
shall
indemnify
the
Administrative
Agent
(and
any
sub-
agent
thereof),
each
Lender,
and
each
Related
Party
of
any
of
the
foregoing
Persons
(each
such

Person
being
called
an
"Indemnatee")
against,
and
hold
each
Indemnatee
harmless
from,
any
and
all
losses,
claims,
damages,
liabilities
and
related
reasonable
and
documented
costs,
expenses
(including
the
reasonable
and
documented
fees,
charges
and
disbursements
of
any
one
firm
of
counsel
for
the
Administrative
Agent
or
any
Lender
collectively,
(if

applicable)
one
local
counsel
in
each
appropriate
jurisdiction
for
all
such
persons
and,
in
the
case
of
a
conflict
of
interest
between
such
persons,
one
additional
counsel
in
each
relevant
jurisdiction
to
each
group
of
such
affected
persons
similarly
situated
taken
as
a
whole),
incurred
by
any
Indemnitee
or
asserted

against
any
Indemnatee
by
any
Person
(including
Borrower),
other
than
by
such
Indemnatee
and
its
Related
Parties
arising
out
of,
in
connection
with,
or
as
a
result
of
(i) the
execution
or
delivery
of
this
Agreement,
any
other
Loan
Document
or
any
agreement
or
instrument
contemplated
hereby
or
thereby,
the
performance

by
the
parties
hereto
of
their
respective
obligations
hereunder
or
thereunder
or
the
consummation
of
the
transactions
contemplated
hereby
or
thereby,
(ii) the
Advances
or
the
use
or
proposed
use
of
the
proceeds
therefrom,
(iii) any
actual
or
alleged
presence
or
Release
of
Hazardous
Materials
with
respect
to
the
RDU
Facility
or

otherwise
on
or
from
any
Real
Estate
Asset,
any
actual
or
alleged
Hazardous
Materials
Activity
related
in
any
way
to
the
RDU
Facility
or
Borrower
or
any
of
their
respective
Subsidiaries
or
any
actual
or
alleged
violation
of
Environmental
Law
or
Environmental
Action
related
in
any
way
to
the
RDU

Facility
or
Borrower
or
any
of
their
respective
Subsidiaries
(except
to
the
extent
caused,
contributed
to
or
exacerbated
by
any
Indemnatee),
or
(iv) any
actual
or
prospective
claim,
litigation,
investigation
or
proceeding
relating
to
any
of
the
foregoing,
whether

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based
on
contract,

tort
or
any
other
theory,
whether
brought
by
a
third
party
or
by
Borrower,
and
regardless
of
whether
any
Indemnatee
is
a
party
thereto;
provided
that
such
indemnity
shall
not,
as
to
any
Indemnatee,
be
available
to
the
extent
that
such
losses,
claims,
damages,
liabilities
or
related
expenses
(x) are
determined

by
a
court
of
competent
jurisdiction
by
final
and
non-
appealable
judgment
to
have
resulted
from
the
bad
faith,
gross
negligence
or
willful
misconduct
of
such
Indemnitee
or
(y) result
from
a
claim
brought
by
Borrower
against
an
Indemnitee
for
a
material
breach
in
bad
faith
of
such
Indemnitee's
obligations
hereunder

or
under
any
other
Loan
Document,
if
Borrower
have
obtained
a
final
and
non-
appealable
judgment
in
its
favor
on
such
claim
as
determined
by
a
court
of
competent
jurisdiction.
This
Section
9.02
shall
not
apply
with
respect
to
Taxes
other
than
any
Taxes
that
represent
losses,
claims
or
damages

arising
from
any
non-
Tax
claim.

(c)

Reimbursement
by
Lenders.

To
the
extent
that
Borrower
for
any
reason
fails
to
indefeasibly
pay
any
amount
required
under
paragraph (a).

or
(b) of
this

Section
to
be
paid
by
it

to
the
Administrative
Agent

(or
any
sub-
agent
thereof)

or
any
Related
Party

of
any
of
the
foregoing,
each
Lender
severally
agrees
to
pay
to
the
Administrative
Agent
(or
any
such
sub-
agent)
or
such
Related
Party,
as
the
case
may
be,
such
Lender's
pro
rata
share
(determined
as
of
the
time
that
the
applicable
unreimbursed
expense
or
indemnity
payment
is
sought
based

on
each
Lender's
share
of
the
Total
Credit
Exposure
at
such
time)
of
such
unpaid
amount
(including
any
such
unpaid
amount
in
respect
of
a
claim
asserted
by
such
Lender);
provided
that
the
unreimbursed
expense
or
indemnified
loss,
claim,
damage,
liability
or
related
expense,
as
the
case
may
be,
was

incurred
by
or
asserted
against
the
Administrative
Agent
(or
any
such
sub-
agent)
or
against
any
Related
Party
of
any
of
the
foregoing
acting
for
the
Administrative
Agent
(or
any
such
sub-
agent).
The
obligations
of
the
Lenders
under
this
paragraph (c).
are
subject
to
the
provisions
of
Section
2.02(b).

(d)

Waiver
of
Consequential
Damages.
Etc.
To
the
fullest
extent
permitted
by
applicable
law,
Borrower
shall
not
assert,
and
hereby
waives,
any
claim
against
any
Indemnitee,
on
any
theory
of
liability,
for
special,
indirect,
consequential
or
punitive
damages
(as
opposed
to
direct
or
actual
damages)
arising
out
of,
in
connection

with,
or
as
a
result
of,
this
Agreement,
any
other
Loan
Document
or
any
agreement
or
instrument
contemplated
hereby,
the
transactions
contemplated
hereby
or
thereby,
the
Advances,
or
the
use
of
the
proceeds
thereof.
No
Indemnatee
referred
to
in
paragraph (b).
above
shall
be
liable
for
any
damages
arising
from
the

use
by
unintended
recipients
of
any
information
or
other
materials
distributed
by
it
through
telecommunications,
electronic
or
other
information
transmission
systems
in
connection
with
this
Agreement
or
the
other
Loan
Documents
or
the
transactions
contemplated
hereby
or
thereby.

(e)

Payments.
All
amounts
due
under
this
Section
9.02
shall
be

payable
promptly,
but
in
any
event,
not
later
than
10
days
after
demand
therefor.

(f)

Survival.
Each
party's
obligations
under
this
Section
9.02
shall
survive
the
termination
of
the
Loan
Documents
and
payment
of
the
obligations
hereunder.

(g)

Break-
Funding.
If
for
any
reason
(i) any
prepayment
or
other
principal

payment
of,
or
any
Conversion
of,
any
SOFR
Rate
Advance
is
made
by
Borrower
to
or
for
the
account
of
a
Lender
on
a
date
prior
to
the
last
day
of
the
Interest
Period
applicable
to
such
SOFR
Rate
Advance,
including
pursuant
to
Section
3.07(b),
(ii) Borrower
fails
to
make
any

payment
or
prepayment
of
a
SOFR
Rate
Advance
for
which
a
notice
of
prepayment
has
been
given
or
that
is

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-

otherwise
required
to
be
made
or
(iii) a
Borrowing
of
a
SOFR
Rate
Advance
does
not
occur
on
the
date
specified
therefor

in
the
Funding
Notice,
or
a
Conversion
to
or
continuation
of
any
SOFR
Rate
Advance
does
not
occur
on
the
date
specified
therefor
in
the
relevant
Conversion/Continuation
Notice,
Borrower
shall,
in
each
case
and
upon
demand
by
such
Lender
(with
a
copy
of
such
demand
to
the
Administrative
Agent),
pay

to
the
Administrative
Agent
for
the
account
of
such
Lender
any
amounts
required
to
compensate
such
Lender
for
any
additional
out-
of-
pocket
and
documented
losses,
costs
or
expenses
that
it
may
reasonably
incur
as
a
result
thereof,
including
any
out-
of-
pocket
and
documented
loss,
cost
or
expense
(including

any
interest
paid
or
payable
by
such
Lender
to
Lenders
of
funds
borrowed
by
it
to
make
or
carry
its
SOFR
Rate
Advance
and
any
loss,
expense
or
liability
sustained
by
such
Lender
in
connection
with
the
liquidation
or
re-
employment
of
such
funds
but
excluding
loss
of
anticipated
profits

and
losses
for
which
no
reasonable
means
of
calculation
exists).

(h)

Expenditure
of
Own
Funds.

The
Administrative
Agent
will
not
be
required
to
advance
or
expend
any
funds
or
otherwise
incur
any
financial
liability
in
the
performance
of
its
duties
or
the
exercise
of
its
powers
or
rights
hereunder

unless
it
has
been
provided
with
security
or
indemnity
reasonably
satisfactory
to
it
against
any
and
all
liability
or
expense
which
may
be
incurred
by
it
by
reason
of
taking
or
continuing
to
take
such
action.

SECTION

4.03Set-Off.

If
an
Event
of
Default
shall
have
occurred
and
be

continuing,
each
Lender
and
each
of
their
respective
Affiliates
is
hereby
authorized
at
any
time
and
from
time
to
time,
to
the
fullest
extent
permitted
by
applicable
law,
to
set
off
and
apply
any
and
all
deposits
(general
or
special,
time
or
demand,
provisional
or
final,
in
whatever
currency)
at

any
time
held,
and
other
obligations
(in
whatever
currency)
at
any
time
owing,
by
such
Lender
or
any
such
Affiliate,
to
or
for
the
credit
or
the
account
of
Borrower
against
any
and
all
of
the
obligations
of
Borrower
now
or
hereafter
existing
under
this
Agreement
or
any
other
Loan

Document
to
such
Lender
or
their
respective
Affiliates,
irrespective
of
whether
or
not
such
Lender
or
Affiliate
shall
have
made
any
demand
under
this
Agreement
or
any
other
Loan
Document
and
although
such
obligations
of
Borrower
may
be
contingent
or
unmatured
or
are
owed
to
a
branch,
office
or
Affiliate

of
such
Lender
different
from
the
branch,
office
or
Affiliate
holding
such
deposit
or
obligated
on
such
indebtedness;
provided
that
in
the
event
that
any
Defaulting
Lender
shall
exercise
any
such
right
of
setoff,
(x) all
amounts
so
set
off
shall
be
paid
over
immediately
to
the
Administrative
Agent
for
further

application
in
accordance
with
the
provisions
of
Section
3.09
and,
pending
such
payment,
shall
be
segregated
by
such
Defaulting
Lender
from
its
other
funds
and
deemed
held
in
trust
for
the
benefit
of
the
Administrative
Agent
and
the
Lenders,
and
(y) the
Defaulting
Lender
shall
provide
promptly
to
the
Administrative
Agent

a
statement
describing
in
reasonable
detail
the
Obligations
owing
to
such
Defaulting
Lender
as
to
which
it
exercised
such
right
of
setoff.
The
rights
of
each
Lender
and
their
respective
Affiliates
under
this
Section
are
in
addition
to
other
rights
and
remedies
(including
other
rights
of
setoff)
that
such
Lender

or
their
respective
Affiliates
may
have.
Each
Lender
agrees
to
notify
Borrower
and
the
Administrative
Agent
promptly
after
any
such
setoff
and
application;
provided
that
the
failure
to
give
such
notice
shall
not
affect
the
validity
of
such
setoff
and
application.

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SECTION

4.04 Amendments
and
Waivers.

(a)

Required
Lenders'
Consent.
Subject

to
the
terms
of
Section
3.09(a).

(i).
and
Section
9.04(d),

no
amendment,
modification,
termination

or
waiver

of
any
provision

of
the
Loan
Documents,

or
consent

to
any
departure
by
Borrower
therefrom,

shall
in

any
event

be
effective
without

the

written
concurrence
of
the
Required
Lenders
or,
where
expressly
stated,
the
Supermajority
Lenders.

(b)

Affected
Lenders
Consent.
Without
the
written
consent
of
each
Lender
(other
than,
in
the
case
of
(ix) below,
a
Defaulting
Lender)
that
would
be
directly
affected
thereby,
no
amendment,
modification,
termination,
or
consent
shall
be
effective

if
the
effect
thereof
would:

(i) extend

the
scheduled
final
maturity
of
the
Advances
or
Note;

(ii) waive,

reduce
or
postpone
any
scheduled
mandatory
repayment
pursuant
to
Section
2.03
(but
not
prepayment);

(iii) reduce

the
rate
of
interest
on
the
Advances
or
any
fee
or
any
premium
payable
to
such
Lender

hereunder
(other
than,
in
each
case,
any
waiver
of
any
increase
in
the
interest
rate
applicable
to
the
Advances
pursuant
to
Section
3.01
or
any
other
amount
hereunder);

(iv) extend

the
time
for
payment
of
any
such
interest
or
fees
to
such
Lender;

(v) increase

or
extend
the
Commitment
of

any
Lender;

(vi)amend,

modify,
terminate
or
waive
any
provision
of
Section
3.04,
Section
3.06,
or
Section
9.02(g).
of
this
Agreement.
or
Sections
3.2(c)
or
Section
4.4
of
the
CTA
or
any
similar
provision
in
any
Loan
Document
relating
to
the
priority
of
payments;

(vii)amend,

modify,
terminate
or
waive
any

provision
of
this
Section
9.04(b),
9.04(c).
or
any
other
provision
of
this
Agreement
that
expressly
provides
that
the
consent
of
all
Lenders
is
required;

(viii) amend

the
definition
of
"Required
Lenders"
or
"Supermajority
Lenders"
or
"Pro
Rata
Share"
or
the;
provided
that,
with
the
consent
of
the
Required
Lenders,
additional

extensions
of
credit
pursuant
hereto
may
be
included
in
the
definition
of
“Required
Lenders”
or
“Supermajority
Lenders”
or
“Pro
Rata
Share”
on
substantially
the
same
basis
as
the
Advances
and
Commitments
are
included
on
the
Closing
Date;
provided
that
notwithstanding
anything
to
the
contrary
contained
herein,
Borrower
shall
be
permitted

to
effect
non-
pro
rata
paydowns
of
the
Advances
in
connection
with
assignments
to
Sponsor-
Related
Parties,
Affiliated
Debt
Funds
or
to
Borrower
made
in
accordance
with
Section
9.05(f)
or 9.05(g),
as
applicable;

(ix) consent

to
the
assignment
or
transfer
by
Borrower
of
any
of
its
rights
and
obligations
under
any

Loan
Document;
or

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(x)amend

Section
2.04
in
any
manner
that
would
alter
the
pro
rata
sharing
of
payments
thereunder.

(c)

Other
Consents.
No
amendment,
modification,
termination
or
waiver
of
any
provision
of
the
Loan
Documents,
or
consent
to
any
departure

by
Borrower
therefrom,
shall:

(i) release

all
or
substantially
all
of
the
Collateral
except
as
expressly
provided
in
the
Loan
Documents
(including
Section
6.02(e));

(ii) without

the
consent
of
the
Required
Lenders
and
the
consent
of
Lenders
holding
a
majority
of
the
Commitments
or
the
Advances
outstanding,
(A) change
the
order
of

application
of
any
reduction
in
the
Commitments
or
any
prepayment
of
the
Advances
among
the
Facilities
from
the
application
thereof
set
forth
in
the
applicable
provisions
of
Section
2.04
of
this
Agreement,
in
any
manner
that
disproportionately
affects
any
of
the
Lenders
differently
from
the
other
Lenders
or
other
Secured

Parties
or
(B) otherwise
disproportionately
affect
the
obligation
of
Borrower
to
make
any
payment
of
the
Advances
to
the
Lenders
from
other
Secured
Parties;
or

(iii) amend,

modify,
terminate
or
waive
any
provision
of
Article
VIII
as
the
same
applies
to
any
Agent,
or
any
other
provision
hereof
of
any
Loan

Document
as
the
same
applies
to
the
rights,
powers,
privileges
or
obligations
of
any
such
Agent,
in
each
case
without
the
consent
of
such
Agent.

(d)

Amendments
to
Cure
Ambiguities,
Defects,
etc.
Notwithstanding
the
other
provisions
of
this
Section
9.04,
(x)
each
Fee
Letter
may
be
amended
by
the

parties
thereto
without
the
consent
of
any
Lender
and
(y) Borrower,
the
Collateral
Agent
(at
the
direction
of
the
Administrative
Agent)
and
the
Administrative
Agent
may
(but
shall
have
no
obligation
to)
amend
or
supplement
the
Loan
Documents
without
the
consent
of
any
Lender:
(i) to
cure
any
ambiguity,
defect
or
inconsistency,

(ii) to
make
any
change
that
would
provide
any
additional
rights
or
benefits
to
the
Lenders
or
the
Secured
Parties,
(iii) to
make,
complete
or
confirm
any
grant
of
Collateral
permitted
or
required
by
this
Agreement
or
any
of
the
Security
Documents
or
any
release
of
any
Collateral
that
is
otherwise
permitted

under
the
terms
of
this
Agreement
and
the
Security
Documents,
or
(iv) to
implement
Section
3.09.

(e)

Execution
of
Amendments,
etc.
The
Administrative
Agent
may,
but
shall
have
no
obligation
to,
with
the
concurrence
of
any
Lender,
execute
amendments,
modifications,
waivers
or
consents
on
behalf
of
such
Lender.
Any
waiver

or
consent
shall
be
effective
only
in
the
specific
instance
and
for
the
specific
purpose
for
which
it
was
given.
No
notice
to
or
demand
on
Borrower
in
any
case
shall
entitle
Borrower
to
any
other
or
further
notice
or
demand
in
similar
or
other
circumstances.
Any
amendment,
modification,
termination,

waiver
or
consent
effected
in
accordance
with
this
Section
9.04
shall
be
binding
upon
each
Lender
at
the
time
outstanding,
each
future
Lender
and,
if
signed
by
Borrower,
on
Borrower.

SECTION

4.05Successors
and
Assigns;
Participations.

(a)

Successors
and
Assigns
Generally.
The
provisions
of
this
Agreement
shall
be
binding
upon

and
inure
to
the
benefit
of
the
parties
hereto
and
their
respective
successors
and
assigns
permitted
hereby,
except
that
Borrower
may
not
assign
or
otherwise
transfer
any
of
its

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rights
or
obligations
hereunder
without
the
prior
written
consent
of
the
Administrative

Agent
and
each
Lender,
and
no
Lender
may
assign
or
otherwise
transfer
any
of
its
rights
or
obligations
hereunder
except
(i) to
an
assignee
in
accordance
with
the
provisions
of
paragraph (b).
of
this
Section,
(ii) by
way
of
participation
in
accordance
with
the
provisions
of
paragraph (d).
of
this
Section,
or
(iii) by
way

of
pledge
or
assignment
of
a
security
interest
subject
to
the
restrictions
of
paragraph (f).
of
this
Section (and
any
other
attempted
assignment
or
transfer
by
any
party
hereto
shall
be
null
and
void).
Nothing
in
this
Agreement,
expressed
or
implied,
shall
be
construed
to
confer
upon
any
Person
(other
than
the

parties
hereto,
their
respective
successors
and
assigns
permitted
hereby,
Participants
to
the
extent
provided
in
paragraph (d).
of
this
Section
and,
to
the
extent
expressly
contemplated
hereby,
the
Related
Parties
of
each
of
the
Administrative
Agent
and
the
Lenders)
any
legal
or
equitable
right,
remedy
or
claim
under
or
by
reason

of
this
Agreement.

(b)

Assignments
by
Lenders.

Any
Lender
may
at
any
time
assign

to
one
or
more
assignees

all
or
a
portion
of
its
rights
and
obligations
under
this

Agreement
(including
all
or
a
portion

of
its
Commitment
and
the
Advances

at
the
time
owing
to
it);
provided

that
any
such
assignment
shall
be
subject
to
the
following
conditions:

(i) Minimum

Amounts.

(A) in

the
case
of
an
assignment
of
the
entire
remaining
amount
of
the
assigning
Lender's
Commitment
and/or
the
Advances
at
the
time
owing
to
it
or
contemporaneous
assignments
to
related
Approved
Funds
that
equal
at
least

the
amount
specified
in
paragraph 9.05(b).
(i)
(B) of
this
Section
in
the
aggregate
or
in
the
case
of
an
assignment
to
a
Lender,
an
Affiliate
of
a
Lender
or
an
Approved
Fund,
no
minimum
amount
need
be
assigned;
and

(B)in
any
case
not
described
in
paragraph (b).
(i)
(A).
of
this

Section,
the
aggregate
amount
of
the
Commitment
(which
for
this
purpose
includes
the
Advances
outstanding
thereunder)
or,
if
the
applicable
Commitment
is
not
then
in
effect,
the
principal
outstanding
balance
of
the
Advances
of
the
assigning
Lender
subject
to
each
such
assignment
(determined
as
of
the
date
the
Assignment
and

Assumption
with
respect
to
such
assignment
is
delivered
to
the
Administrative
Agent
or,
if
“Trade
Date”
is
specified
in
the
Assignment
and
Assumption,
as
of
the
Trade
Date)
shall
not
be
less
than
\$1,000,000,
in
the
case
of
any
assignment
in
respect
of
the
Facility,
unless
each
of
the
Administrative

Agent
(acting
at
the
direction
of
the
Required
Lenders)
and,
so
long
as
no
Default
or
Event
of
Default
has
occurred
and
is
continuing,
Borrower
otherwise
consents
(such
consent
not
to
be
unreasonably
withheld,
conditioned
or
delayed).

(ii) Proportionate

Amounts.

Each
partial
assignment
shall
be
made
as
an
assignment
of

a
proportionate
part
of
all
the
assigning
Lender's
rights
and
obligations
under
this
Agreement
with
respect
to
the
Advances
or
the
Commitment
assigned,
except
that
this
clause (ii)
shall
not
prohibit
any
Lender
from
assigning
all
or
a
portion
of
its
rights
and
obligations
among
separate
Facilities
on
a
non-
pro

rata
basis.

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(iii) Required

Consents.

No
consent
shall
be
required
for
any
assignment
except
to
the
extent
required
by
paragraph (b).
(i).
(B).
of
this
Section
and,
in
addition:

(A) the

consent
of
Borrower
(such
consent
not
to
be
unreasonably
withheld,
conditioned
or

delayed)
shall
be
required
unless
(x)
an
Event
of
Default
has
occurred
and
is
continuing
at
the
time
of
such
assignment
or
(y) such
assignment
is
to
a
Permitted
Transferee;
provided
that
Borrower
shall
be
deemed
to
have
consented
to
any
such
assignment
unless
they
shall
object
thereto
by
written
notice

to
the
Administrative
Agent
within five
(5)
Business
Days
after
having
received
notice
thereof;
and

(B)the

consent
of
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders;
provided
such
consent
shall
not
be
unreasonably
withheld
or
delayed)
shall
be
required
for
assignments
in
respect
of
the
Advances
to

a
Person
who
is
not
a
Lender,
an
Affiliate
of
a
Lender,
an
Approved
Fund,
an
Affiliated
Debt
Fund
or
a
Sponsor-
Related
Party.

(iv) Assignment

and
Assumption.
The
parties
to
each
assignment
shall
execute
and
deliver
to
the
Administrative
Agent
an
Assignment
and
Assumption,
together
with
a
processing
and

recordation
fee
of
\$3,500
paid
by
the
assigning
Lender
(or
the
assignee);
provided
that
the
Administrative
Agent
may,
in
its
sole
discretion,
elect
to
waive
such
processing
and
recordation
fee
in
the
case
of
any
assignment;
provided,
further,
that
only
one
such
fee
shall
be
payable
in
the
event
of

simultaneous
assignments
to
or
from
two
or
more
Approved
Funds.
The
assignee,
if
it
is
not
a
Lender,
shall
deliver
to
the
Administrative
Agent
an
Administrative
Questionnaire.

(v)No

Assignment
to
Certain
Persons.
Notwithstanding
anything
to
the
contrary
herein,
no
Lender
may
assign
or
transfer
(including
by
participation)
any
of

its
Advances
or
any
of
rights
or
obligations
hereunder
or
under
the
Loan
Documents
to
(A) any
natural
Person,
(B) any
Defaulting
Lender
or
any
of
its
Subsidiaries,
(C)
any
Disqualified
Lender
or
any
of
its
Subsidiaries,
or
(D)
any
Person
who,
upon
becoming
a
Lender
hereunder,
would
constitute
any
of
the

foregoing
Persons
described
in
clause (B).
or
(C).

Any
assignment
or
participation
by
a
Lender
without
Borrower's
consent
to
a
Disqualified
Lender
or,
to
the
extent
Borrower's
consent
is
required
under
this
Section
9.05,
to
any
other
Person,
shall
be
null
and
void,
and
Borrower
shall
be
entitled
to
seek

specific
performance
to
unwind
any
such
assignment
or
participation
in
addition
to
any
other
remedies
available
to
Borrower
at
law
or
in
equity.
If
any
assignment
or
participation
under
this
Section
9.05
is
made
to
any
Disqualified
Lender
or
an
Affiliate
of
any
Disqualified
Lender
without
Borrower's
prior
written
consent,

then:
(a)
Borrower
may
(i)
prepay
the
applicable
outstanding
Advances
at
a
price
equal
to
the
lesser
of
par
and
the
amount
such
person
paid
to
acquire
such
Advances,
plus
accrued
and
unpaid
interest
thereon,
and/or
(ii)
require
such
Person
to
assign
its
rights
and
obligations
to
one
or
more

Eligible
Assignees
at
the
price
indicated
above
(which
assignment
shall
not
be
subject
to
any
processing
and
recordation
fee),
(b)
no
such
Person
shall
receive
any
information
or
reporting
provided
by
or
on
behalf
of
Borrower,
the
Administrative
Agent
or
any
Lender,
(c)
for
purposes
of
voting,
the

■

Advances

or

Commitments

held

by

such

Person

shall

be

deemed

not

to

be

outstanding,

and

such

Person

shall

have

no

voting

or

consent

rights

with

respect

to

"Required

Lender"

or

class

votes

or

consents,

(d)

for

purposes

of

any

matter

requiring

the

vote
or
consent
of
each
Lender
affected
by
any
amendment
or
waiver,
such
person
shall
be
deemed
to
have
voted
or
consented
to
approve
such
amendment
or
waiver
if
a
majority
of
the
affected
class
so
approves
and
(e)
such
Person
shall
not
be
entitled
to
any
expense
reimbursement
or

indemnification
rights
and
shall
be
treated
in
all
other
respects
as
a
Defaulting
Lender;
it
being
understood
and
agreed
that
the
foregoing
provisions
shall
only
apply
to
a
Disqualified
Lender
and
not
to
any
assignee
of
such
Disqualified
Lender
that
becomes
a
Lender
so
long
as
such
assignee
is
not

a
Disqualified
Lender
or
an
Affiliate
thereof.
Nothing
in
this
Agreement
shall
be
deemed
to
prejudice
any
right
or
remedy
that
Borrower
may
otherwise
have
at
law
or
equity.
Each
Lender
acknowledges
and
agrees
that
Borrower
will
suffer
irreparable
harm
if
such
Lender
breaches
any
obligation
under
this
Section
9.05

insofar
as
such
obligation
relates
to
any
assignment,
participation
or
pledge
to
any
Affiliate
of
any
Disqualified
Lender
without
Borrower's
prior
written
consent.
Additionally,
each
Lender
agrees
that
Borrower
may
seek
to
obtain
specific
performance
or
other
equitable
or
injunctive
relief
to
enforce
this
paragraph
against
such
Lender
with
respect

to
such
breach
without
posting
a
bond
or
presenting
evidence
of
irreparable
harm.
No
Agent
shall
have
responsibility
or
liability
for
monitoring
or
enforcing
the
list
of
Disqualified
Lenders
or
for
any
assignment
of
the
Advances
or
for
the
sale
of
any
participation,
in
either
case,
to
a
Disqualified
Lender.

Any
assignor
of
its
Advances
or
seller
of
a
participation
hereunder
shall
be
entitled
to
rely
conclusively
on
a
representation
of
the
assignee
Lender
or
Participant
in
the
relevant
Assignment
and
Assumption
or
participation
agreement,
as
applicable,
that
such
assignee
or
purchaser
is
not
a
Disqualified
Lender.
Upon
the
request

of
any
Lender
therefor,
the
Administrative
Agent
shall
make
available
to
such
Lender
the
list
of
Disqualified
Lenders.

(vi) Certain

Additional
Payments.
In
connection
with
any
assignment
of
rights
and
obligations
of
any
Defaulting
Lender
hereunder,
no
such
assignment
shall
be
effective
unless
and
until,
in
addition
to
the
other

conditions
thereto
set
forth
herein,
the
parties
to
the
assignment
shall
make
such
additional
payments
to
the
Administrative
Agent
in
an
aggregate
amount
sufficient,
upon
distribution
thereof
as
appropriate
(which
may
be
outright
payment,
purchases
by
the
assignee
of
participations
or
subparticipations,
or
other
compensating
actions,
including
funding,
with
the

consent
of
the
Administrative
Agent,
the
applicable
Pro
Rata
Share
of
the
Advances
previously
requested
but
not
funded
by
the
Defaulting
Lender,
to
each
of
which
the
applicable
assignee
and
assignor
hereby
irrevocably
consent),
and
to
pay
and
satisfy
in
full
all
payment
liabilities
then
owed
by
such
Defaulting
Lender

to
the
Administrative
Agent
and
each
other
Lender
hereunder
(and
interest
accrued
thereon).
Notwithstanding
the
foregoing,
in
the
event
that
any
assignment
of
rights
and
obligations
of
any
Defaulting
Lender
hereunder
shall
become
effective
under
applicable
law
without
compliance
with
the
provisions
of
this
paragraph,
then
the
assignee
of
such

interest
shall
be
deemed
to
be
a
Defaulting
Lender
for
all
purposes
of
this
Agreement
until
such
compliance
occurs.

Subject
to
acceptance
and
recording
thereof
(including
with
respect
to
principal
and
interest)
by
the
Administrative
Agent
pursuant
to
paragraph (c)
of
this
Section,
from
and
after
the
effective
date
specified

in
each
Assignment
and
Assumption,
the
assignee
thereunder
shall
be
a
party
to
this
Agreement
and,
to
the
extent
of
the
interest
assigned
by
such
Assignment
and
Assumption,
have
the
rights
and
obligations
of
a
Lender
under
this
Agreement,
and
the
assigning
Lender
thereunder

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shall,
to
the
extent
of
the
interest
assigned
by
such
Assignment
and
Assumption,
be
released
from
its
obligations
under
this
Agreement
(and,
in
the
case
of
an
Assignment
and
Assumption
covering
all
of
the
assigning
Lender's
rights
and
obligations
under
this
Agreement,
such
Lender
shall
cease
to
be
a

party
hereto)
but
shall
continue
to
be
entitled
to
the
benefits
of
Section
3.04
and Section
9.02
with
respect
to
facts
and
circumstances
occurring
prior
to
the
effective
date
of
such
assignment;
provided,
that
except
to
the
extent
otherwise
expressly
agreed
by
the
affected
parties,
no
assignment
by
a
Defaulting
Lender

will
constitute
a
waiver
or
release
of
any
claim
of
any
party
hereunder
arising
from
that
Lender's
having
been
a
Defaulting
Lender.
Any
assignment
or
transfer
by
a
Lender
of
rights
or
obligations
under
this
Agreement
that
does
not
comply
with
this
paragraph
shall
be
treated
for
purposes
of
this

Agreement
as
a
sale
by
such
Lender
of
a
participation
in
such
rights
and
obligations
in
accordance
with
paragraph (d).
of
this
Section.

(c)

Register.
The
Administrative
Agent,
acting
solely
for
this
purpose
as
a
non-
fiduciary
agent
of
Borrower,
shall
maintain
at
one
of
its
offices
a
copy
of

each
Assignment
and
Assumption
delivered
to
it
and
a
register
for
the
recordation
of
the
names
and
addresses
of
the
Lenders,
and
the
Commitments
of,
and
principal
amounts
(and
stated
interest)
of
the
Advances
owing
to,
each
Lender
pursuant
to
the
terms
hereof
from
time
to
time
(the
"Register").
The

entries
in
the
Register
shall
be
conclusive
absent
manifest
error,
and
Borrower,
the
Administrative
Agent
and
the
Lenders
shall
treat
each
Person
whose
name
is
recorded
in
the
Register
pursuant
to
the
terms
hereof
as
a
Lender
hereunder
for
all
purposes
of
this
Agreement.
The
Register
shall
be
available
for

inspection
by
Borrower
and
any
Lender,
at
any
reasonable
time
and
from
time
to
time
upon
reasonable
prior
notice.
The
Register
in
intended
to
comply
with
Treas.
Reg.
Sections
5(f).103-
1(c)
and
1.871-
14(c)
and
any
obligation
or
Note
issued
under
this
Agreement
is
intended
to
be
in
"registered
form"

pursuant
to
such
Treasury
Regulations.

(d)

Participations.

Any
Lender
may
at
any
time,
without
the
consent
of,
or
notice
to,
Borrower
or
the
Administrative
Agent,
sell
participations
to
any
Person
(other
than
a
natural
Person,
any
Disqualified
Lender,
Borrower
or
any
of
Borrower's
Affiliates
or
Subsidiaries)
(each,
a
"Participant")

in
all
or
a
portion
of
such
Lender's
rights
and/or
obligations
under
this
Agreement
(including
all
or
a
portion
of
its
Commitment
and/or
the
Advances
owing
to
it);
provided
that
(i) such
Lender's
obligations
under
this
Agreement
shall
remain
unchanged,
(ii) such
Lender
shall
remain
solely
responsible
to
the
other
parties
hereto

for
the
performance
of
such
obligations,
(iii)
no
Lender
shall
sell
any
participation
that,
when
taken
together
with
all
other
participations,
if
any,
sold
by
such
Lender,
covers
all
of
such
Lender's
rights
and
obligations
under
this
Agreement,
(iv)
such
Lender
has
caused
its
Participants
to
agree
in
writing
to

be
bound
by
the
provisions
of
Section
9.15
as
of
such
Participant
was
a
party
hereto
as
a
Lender
and
(v) Borrower,
the
Administrative
Agent
and
Lenders
shall
continue
to
deal
solely
and
directly
with
such
Lender
in
connection
with
such
Lender's
rights
and
obligations
under
this
Agreement.
For
the
avoidance

of
doubt,
(x)
each
Lender
shall
be
responsible
for
the
indemnity
under
Section
3.05(d).
with
respect
to
any
payments
made
by
such
Lender
to
its
Participant(s)
and
(y)
no
Participant
shall
have
any
rights
under
this
Agreement
or
any
of
the
other
Loan
Documents
except
as
expressly
set
forth
herein

and
each
Participant's
rights
against
the
granting
Lender
in
respect
of
any
participation
shall
be
limited
to
those
set
forth
in
the
participation
agreement
(which
shall
not
be
in
contravention
of
this
Agreement).

Any

agreement
or
instrument
pursuant
to
which
a
Lender
sells
such
a
participation
shall
provide
that

such
Lender
shall
retain
the
sole
right
to
enforce
this
Agreement
and
to
approve

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any
amendment,
modification
or
waiver
of
any
provision
of
this
Agreement.
Notwithstanding
anything
to
the
contrary
herein,
no
Lender
shall
permit
any
Participant
to
have
any
voting

rights
or
any
right
to
control
the
vote
of
such
Lender
with
respect
to
any
amendment,
modification,
waiver,
consent
or
other
action
hereunder
or
under
any
other
Loan
Document
(except
as
to
actions
that
would
(1)
reduce
or
forgive
the
principal
amount
of
the
Advances
of
such
Lender,
reduce
the

rate
of
or
forgive
any
interest
or
premium
thereon,
or
reduce
or
forgive
any
fees
or
other
Obligations
owed
to
such
Lender
or
(2)
extend
the
Maturity
Date
with
respect
to
such
Lender's
Advances).
Borrower
agrees
that
each
Participant
shall
be
entitled
to
the
benefits
of
Section
3.04,
9.02(g),
and 3.06

(subject
to
the
requirements
and
limitations
therein,
as
well
as
the
requirements
under
Section
3.05(f)
(it
being
understood
that
the
documentation
required
under
Section
3.05(f)
shall
be
delivered
to
the
participating
Lender))
to
the
same
extent
as
if
it
were
a
Lender
and
had
acquired
its
interest
by
assignment
pursuant

to
paragraph (b).
of
this
Section;
provided
that
such
Participant
(A) agrees
to
be
subject
to
the
provisions
of
Section
3.07(b).
as
if
it
were
an
assignee
under
paragraph (b).
of
this
Section;
and
(B) shall
not
be
entitled
to
receive
any
greater
payment
under
Section
3.03
or 3.05,
with
respect
to
any
participation,
than

its
participating
Lender
would
have
been
entitled
to
receive.
Each
Lender
that
sells
a
participation
agrees,
at
Borrower's
request
and
expense,
to
use
reasonable
efforts
to
cooperate
with
Borrower
to
effectuate
the
provisions
of
Section
3.07(b).
with
respect
to
any
Participant.
To
the
extent
permitted
by
law,
each
Participant
also

shall
be
entitled
to
the
benefits
of
Section
9.03
as
though
it
were
a
Lender;
provided
that
such
Participant
agrees
to
be
subject
to
Section
3.06
and
9.15
as
though
it
were
a
Lender.
Each
Lender
that
sells
a
participation
shall,
acting
solely
for
this
purpose
as
a
non-
fiduciary

agent
of
Borrower,
maintain
a
register
on
which
it
enters
the
name
and
address
of
each
Participant
and
the
principal
amounts
(and
stated
interest)
of
each
Participant's
interest
in
the
Advances
or
other
obligations
under
the
Loan
Documents
(the
"Participant
Register");
provided
that
no
Lender
shall
have
any
obligation
to

disclose
all
or
any
portion
of
the
Participant
Register
(including
the
identity
of
any
Participant
or
any
information
relating
to
a
Participant's
interest
in
any
Commitments,
the
Advances
or
its
other
obligations
under
any
Loan
Document)
to
any
Person
except
to
the
extent
that
such
disclosure
is
necessary
to
establish

that
such
Commitment,
Advance
or
other
obligation
is
in
registered
form
under
Section
5f.103-
1(c)
of
the
United
States
Treasury
Regulations
and
Section
1.163-
5(b)
of
the
Proposed
United
States
Treasury
Regulations.
The
entries
in
the
Participant
Register
shall
be
conclusive
absent
manifest
error,
and
such
Lender
shall
treat
each

Person
whose
name
is
recorded
in
the
Participant
Register
as
the
owner
of
such
participation
for
all
purposes
of
this
Agreement
notwithstanding
any
notice
to
the
contrary.
For
the
avoidance
of
doubt,
the
Administrative
Agent
(in
its
capacity
as
Administrative
Agent)
shall
have
no
responsibility
for
maintaining
a
Participant
Register.

The
Participant
Register
in
intended
to
comply
with
Treas.
Reg.
Sections
5(f).103-
1(c)
and
1.871-
14(c)
and
any
participation
or
Note
under
this
Agreement
is
intended
to
be
in
"registered
form"
pursuant
to
such
Treasury
Regulations.

(e)

Certain
Pledges.
Any
Lender
may
at
any
time
pledge
or
assign
a

security
interest
in
all
or
any
portion
of
its
rights
under
this
Agreement
to
secure
obligations
of
such
Lender,
including
any
pledge
or
assignment
to
secure
obligations
to
a
Federal
Reserve
Bank
or
any
other
central
bank
having
jurisdiction
over
such
Lender;
provided
that
no
such
pledge
or
assignment
shall

release
such
Lender
from
any
of
its
obligations
hereunder
or
substitute
any
such
pledgee
or
assignee
for
such
Lender
as
a
party
hereto;
provided,
further
that
no
such
pledge
or
assignment
shall
be
made
to
a
Disqualified
Lender.

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-

(f)
Assignments

to
Sponsor-
Related
Parties.
To
the
extent
that
any
Sponsor-
Related
Party
holds
the
Advances
(which,
for
the
avoidance
of
doubt,
may
be
effected
through
Auctions
open
to
all
Lenders
or
through
open
market
purchases
without
the
consent
of
the
Administrative
Agent
and
shall
not
exceed
more
than 25%
of
the

aggregate
outstanding
amount
of
the
Advances
being
held
by
any
Sponsor-
Related
Parties
after
giving
effect
to
any
substantially
simultaneous
cancellations
or
retirements
thereof),
no
such
Sponsor-
Related
Party,
in
its
capacity
as
Lender,
shall
(i) have
any
voting
or
approval
rights
whatsoever
under
the
Loan
Documents
(including
for
purposes
of

any
action
requiring
the
approval
of
"Required
Lenders"
or
pursuant
to
Section
9.04)
other
than
with
respect
to
those
matters
(x) set
forth
in
Section
9.04(b).
to
the
extent
such
Sponsor-
Related
Party
is
a
Lender
affected
thereby
or
(y) that
disproportionately
affects
such
Sponsor-
Related
Party
in
its
capacity
as
a

Lender
as
compared
to
the
effect
of
such
matters
on
the
other
Lenders,
or
be
permitted
to
require
any
Agent
or
any
other
Lender
to
undertake
any
action
(or
refrain
from
taking
any
action)
pursuant
to
or
with
respect
to
the
Loan
Documents,
(ii) be
permitted
to,
in
its
capacity
as

a
Lender,
attend
any
meeting
or
conference
call
with
any
Agent,
any
Lender
or
Borrower,
receive
any
information
from
any
Agent,
any
Lender
or
Borrower
or
have
any
rights
of
inspection
or
access
relating
to
Borrower
or
(iii) be
permitted
to
make
or
bring
any
claim,
in
its
capacity
as
Lender,

against
any
Agent
or
any
Lender
with
respect
to
the
duties
and
obligations
of
such
Person
under
the
Loan
Documents.
Notwithstanding
anything
to
the
contrary
set
forth
herein
(including
Section
3.06),
each
applicable
Sponsor-
Related
Party
shall
be
entitled,
in
their
respective
sole
discretion,
to
cancel
or
retire
the
Advances

held
by
any
Sponsor-
Related
Party,
and
concurrently
with
such
cancellation
of
Debt,
the
aggregate
outstanding
principal
amount
of
the
Advances
shall
be
deemed
reduced,
as
of
the
date
of
such
cancellation,
by
the
full
par
value
of
the
aggregate
principal
amount
of
the
Advances
so
cancelled,
and
each
principal

repayment
installment
pursuant
to
Section
2.03
shall
be
reduced
in
inverse
order
of
maturity
by
the
full
par
value
of
the
aggregate
principal
amount
of
the
Advances
so
cancelled.
No
Sponsor-
Related
Party
shall
be
required
to
represent
or
warrant
that
it
is
not
in
possession
of
material
non-
public

information
with
respect
to
Borrower
and/or
their
respective
securities
in
connection
with
any
such
assignment.

Notwithstanding
anything
to
the
contrary
contained
herein,
any
Lender
may,
at
any
time,
assign
all
or
a
portion
of
its
rights
and
obligations
under
this
Agreement
in
respect
of
its
Advances
to
an
Affiliated

Debt
Fund,
and
any
Affiliated
Debt
Fund
may,
from
time
to
time,
purchase
the
Advances
through
Auctions
open
to
all
Lenders
or
through
open
market
purchases
without
the
consent
of
the
Administrative
Agent,
in
each
case,
without
the
necessity
of
meeting
the
requirements
set
forth
in
(or
being
subject
to

the
restriction
of)
the
immediately
preceding
paragraph.
The
Advances
acquired
by
any
Affiliated
Debt
Fund
may
(but
shall
not
be
required
to)
be
contributed
to
Borrower
or
any
of
its
Subsidiaries
for
purposes
of
cancellation
of
such
Debt
(it
being
understood
that
such
Advances
so
contributed
shall
be
retired
and

cancelled
promptly
upon
such
contribution);
provided
that
upon
such
cancellation
of
Debt,
the
aggregate
outstanding
principal
amount
of
the
Advances
shall
be
deemed
reduced,
as
of
the
date
of
such
contribution,
by
the
full
par
value
of
the
aggregate
principal
amount
of
the
Advances
so
contributed
and
cancelled,
and
each

principal
repayment
installment
pursuant
to
Section
2.03
shall
be
reduced
in
inverse
order
of
maturity
by
the
full
par
value
of
the
aggregate
principal
amount
of
Advances
so
contributed
and
cancelled.

(g)

Assignments
to
Borrower.
Notwithstanding
anything
to
the
contrary
contained
in
this
clause (g).
or
any
other
provision
of

this
Agreement,
so
long
as
no
Event
of
Default

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■

has
occurred
and
is
continuing
or
would
result
therefrom,
each
Lender
shall
have
the
right
at
any
time
to
sell,
assign
or
transfer
all
or
a
portion
of
its
Advances
owing
to

it
to
Borrower
on
a
non-
pro
rata
basis,
subject
to
the
following
limitations:

(i) Borrower

may
conduct
one
or
more
modified
Dutch
auctions
(each,
an
“Auction”)
to
repurchase
all
or
any
portion
of
the
Advances;
provided
that
(A) notice
of
the
Auction
shall
be
made
to
the
Lenders
in
accordance

with
their
Pro
Rata
Shares
and
(B) the
Auction
shall
be
conducted
pursuant
to
such
procedures
as
the
Administrative
Agent
(acting
at
the
direction
of
the
Required
Lenders)
may
establish
which
are
consistent
with
this
clause (g).
and
reasonably
acceptable
to
Borrower
and
the
Administrative
Agent
(acting
at
the
direction
of
the

Required
Lenders);

(ii) with

respect
to
all
repurchases
made
by
Borrower
pursuant
to
this
clause (g).
(A) Borrower
shall
deliver
to
the
Administrative
Agent
a
certificate
stating
that
no
Event
of
Default
has
occurred
and
is
continuing
or
would
result
from
such
repurchase
and
(B) the
assigning
Lender
and
Borrower
shall
execute
and

deliver
to
Administrative
Agent
an
Assignment
and
Assumption;
and

(iii) following

repurchase
by
Borrower
pursuant
to
this
clause (g),
the
Advances
so
repurchased
shall,
without
further
action
by
any
Person,
be
deemed
cancelled
for
all
purposes
and
no
longer
outstanding
(and
may
not
be
resold
by
Borrower),
for
all
purposes
of

this
Agreement
and
all
other
Loan
Documents,
including,
but
not
limited
to
(A) the
making
of,
or
the
application
of,
any
payments
to
the
Lenders
under
this
Agreement
or
any
other
Loan
Document,
(B) the
making
of
any
request,
demand,
authorization,
direction,
notice,
consent
or
waiver
under
this
Agreement
or
any
other

Loan
Document
or
(C) the
determination
of
Required
Lenders,
or
for
any
similar
or
related
purpose,
under
this
Agreement
or
any
other
Loan
Document;
provided
that
upon
such
cancellation
of
Debt,
the
aggregate
outstanding
principal
amount
of
the
Advances
shall
be
deemed
reduced,
as
of
the
date
of
such
cancellation,
by

the
full
par
value
of
the
aggregate
principal
amount
of
the
Advances
so
contributed
and
cancelled,
and
each
principal
repayment
installment
pursuant
to
Section
2.03
shall
be
reduced
in
inverse
order
of
maturity
by
the
full
par
value
of
the
aggregate
principal
amount
of
Advances
so
cancelled.
In
connection
with

any
Advances
repurchased
and
cancelled
pursuant
to
this
clause (g),
the
Administrative
Agent
is
authorized
to
make
appropriate
entries
in
the
Register
to
reflect
any
such
cancellation.

SECTION

4.06 Independence

of
Covenants.

All
covenants
hereunder
shall
be
given
independent
effect
so
that
if
a
particular
action
or
condition
is
not
permitted

by
any
of
such
covenants,
the
fact
that
it
would
be
permitted
by
an
exception
to,
or
would
otherwise
be
within
the
limitations
of,
another
covenant
shall
not
avoid
the
occurrence
of
a
Default
or
an
Event
of
Default
if
such
action
is
taken
or
condition
exists.

SECTION

4.07 Survival

of
Representations,
Warranties
and
Agreements.
All
representations,
warranties
and
agreements
made
herein
shall
survive
the
execution
and
delivery
hereof
and
the
making
of
the
Advances.
Notwithstanding
anything
herein
or
implied
by
law
to
the
contrary,
the
agreements
of
Borrower
set
forth
in
Section
3.04,
3.06,
9.02
and 9.04
and
the
agreements

of
Lenders
set
forth
in
Sections
3.05(d),
3.06,
and
8.03 shall
survive

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the
payment
of
the
Advances
and
the
reimbursement
of
any
amounts
drawn
thereunder,
and
the
termination
hereof.

SECTION

4.08 No
Waiver;
Remedies
Cumulative.
No
failure
or
delay
on
the
part

of
any
Agent
or
any
Lender
in
the
exercise
of
any
power,
right
or
privilege
hereunder
or
under
any
other
Loan
Document
shall
impair
such
power,
right
or
privilege
or
be
construed
to
be
a
waiver
of
any
default
or
acquiescence
therein,
nor
shall
any
single
or
partial
exercise
of

any
such
power,
right
or
privilege
preclude
other
or
further
exercise
thereof
or
of
any
other
power,
right
or
privilege.
The
rights,
powers
and
remedies
given
to
each
Agent
and
each
Lender
hereby
are
cumulative
and
shall
be
in
addition
to
and
independent
of
all
rights,
powers
and
remedies
existing

by
virtue
of
any
statute
or
rule
of
law
or
in
any
of
the
other
Loan
Documents.
Any
forbearance
or
failure
to
exercise,
and
any
delay
in
exercising,
any
right,
power
or
remedy
hereunder
shall
not
impair
any
such
right,
power
or
remedy
or
be
construed
to
be
a
waiver

thereof,
nor
shall
it
preclude
the
further
exercise
of
any
such
right,
power
or
remedy.

SECTION

4.09 Marshaling:
Payments
Set
Aside.
Neither
any
Agent
nor
any
Lender
shall
be
under
any
obligation
to
marshal
any
assets
in
favor
of
Borrower
or
any
other
Person
or
against
or
in
payment
of

any
or
all
of
the
Obligations.
To
the
extent
that
Borrower
makes
a
payment
or
payments
to
the
Administrative
Agent
or
the
Lenders
(or
to
the
Administrative
Agent,
on
behalf
of
the
Lenders),
or
any
Agent
or
Lender
enforces
any
security
interests
or
exercise
its
rights
of
setoff,
and
such

payment
or
payments
or
the
proceeds
of
such
enforcement
or
setoff
or
any
part
thereof
are
subsequently
invalidated,
declared
to
be
fraudulent
or
preferential,
set
aside
and/or
required
to
be
repaid
to
a
trustee,
receiver
or
any
other
party
under
any
bankruptcy
law,
any
other
state
or
federal
law,
common

law
or
any
equitable
cause,
then,
to
the
extent
of
such
recovery,
the
obligation
or
part
thereof
originally
intended
to
be
satisfied,
and
all
Liens,
rights
and
remedies
therefor
or
related
thereto,
shall
be
revived
and
continued
in
full
force
and
effect
as
if
such
payment
or
payments
had
not

been
made
or
such
enforcement
or
setoff
had
not
occurred.

SECTION

4.10 Severability.

In
case
any
provision
in
or
obligation
hereunder
or
under
any
other
Loan
Document
shall
be
invalid,
illegal
or
unenforceable
in
any
jurisdiction,
the
validity,
legality
and
enforceability
of
the
remaining
provisions
or
obligations,
or
of
such

provision
or
obligation
in
any
other
jurisdiction,
shall
not
in
any
way
be
affected
or
impaired
thereby.

SECTION

4.11 Obligations
Several:
Independent
Nature
of
Lenders'
Rights.
The
obligations
of
the
Lenders
hereunder
are
several
and
no
Lender
shall
be
responsible
for
the
obligations
or
Commitment
of
any
other
Lender
hereunder.

Nothing
contained
herein
or
in
any
other
Loan
Document,
and
no
action
taken
by
the
Lenders
pursuant
hereto
or
thereto,
shall
be
deemed
to
constitute
the
Lenders
as
a
partnership,
an
association,
a
Joint
Venture
or
any
other
kind
of
entity.
The
amounts
payable
at
any
time
hereunder
to
each

Lender
shall
be
a
separate
and
independent
debt,
and
each
Lender
shall
be
entitled
to
protect
and
enforce
its
rights
arising
out
hereof
and
it
shall
not
be
necessary
for
any
other
Lender
to
be
joined
as
an
additional
party
in
any
proceeding
for
such
purpose.

SECTION

4.12 Headings. Section

headings
herein
are
included
herein
for
convenience
of
reference
only
and
shall
not
constitute
a
part
hereof
for
any
other
purpose
or
be
given
any
substantive
effect.

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■

SECTION

4.13 Governing
Law;
Jurisdiction;
Etc.

(a)

Governing
Law.
This
Agreement
and
the
other

Loan
Documents
and
any
claims,
controversy,
dispute
or
cause
of
action
(whether
in
contract
or
tort
or
otherwise)
based
upon,
arising
out
of
or
relating
to
this
Agreement
or
any
other
Loan
Document
(except,
as
to
any
other
Loan
Document,
as
expressly
set
forth
therein)
and
the
transactions
contemplated
hereby

and
thereby
shall
be
governed
by,
and
construed
in
accordance
with,
the
law
of
the
State
of
New
York.

(b)

Jurisdiction.
Borrower
irrevocably
and
unconditionally
agrees
that
it
will
not
commence
any
action,
litigation
or
proceeding
of
any
kind
or
description,
whether
in
law
or
equity,
whether
in
contract

or
in
tort
or
otherwise,
against
the
Administrative
Agent,
any
Lender
or
any
Related
Party
of
the
foregoing
in
any
way
relating
to
this
Agreement
or
any
other
Loan
Document
or
the
transactions
relating
hereto
or
thereto,
in
any
forum
other
than
the
courts
of
the
State
of
New
York

sitting
in
New
York
County,
and
of
the
United
States
District
Court
of
the
Southern
District
of
New
York,
and
any
appellate
court
from
any
thereof,
and
each
of
the
parties
hereto
irrevocably
and
unconditionally
submits
to
the
jurisdiction
of
such
courts
and
agrees
that
all
claims
in
respect
of

any
such
action,
litigation
or
proceeding
may
be
heard
and
determined
in
such
New
York
State
court
or,
to
the
fullest
extent
permitted
by
applicable
law,
in
such
federal
court.
Each
of
the
parties
hereto
agrees
that
a
final
judgment
in
any
such
action,
litigation
or
proceeding
shall
be
conclusive

and
may
be
enforced
in
other
jurisdictions
by
suit
on
the
judgment
or
in
any
other
manner
provided
by
law.
Nothing
in
this
Agreement
or
in
any
other
Loan
Document
shall
affect
any
right
that
the
Administrative
Agent
or
any
Lender
may
otherwise
have
to
bring
any
action
or
proceeding

relating
to
this
Agreement
or
any
other
Loan
Document
against
Borrower
or
its
properties
in
the
courts
of
any
jurisdiction.

(c)

Waiver
of
Venue.
Borrower
irrevocably
and
unconditionally
waives,
to
the
fullest
extent
permitted
by
applicable
law,
any
objection
that
it
may
now
or
hereafter
have
to
the
laying

of
venue
of
any
action
or
proceeding
arising
out
of
or
relating
to
this
Agreement
or
any
other
Loan
Document
in
any
court
referred
to
in
paragraph (b).
of
this
Section
9.13.
Each
of
the
parties
hereto
hereby
irrevocably
waives,
to
the
fullest
extent
permitted
by
applicable
law,
the
defense
of

an
inconvenient
forum
to
the
maintenance
of
such
action
or
proceeding
in
any
such
court.

(d)

Service
of
Process.
Each
party
hereto
irrevocably
consents
to
service
of
process
in
the
manner
provided
for
notices
in
Section
9.01.
Nothing
in
this
Agreement
will
affect
the
right
of
any
party
hereto

to
serve
process
in
any
other
manner
permitted
by
applicable
law.

SECTION

4.14 Waiver
of
Jury
Trial.
EACH
PARTY
HERETO
HEREBY
IRREVOCABLY
WAIVES,
TO
THE
FULLEST
EXTENT
PERMITTED
BY
APPLICABLE
LAW,
ANY
RIGHT
IT
MAY
HAVE
TO
A
TRIAL
BY
JURY
IN
ANY
LEGAL
PROCEEDING
DIRECTLY
OR
INDIRECTLY
ARISING
OUT

OF
OR
RELATING
TO
THIS
AGREEMENT
OR
ANY
OTHER
LOAN
DOCUMENT
OR
THE
TRANSACTIONS
CONTEMPLATED
HEREBY
OR
THEREBY
(WHETHER
BASED
ON
CONTRACT,
TORT
OR
ANY
OTHER
THEORY).
EACH
PARTY
HERETO
(A) CERTIFIES
THAT
NO
REPRESENTATIVE,
AGENT
OR
ATTORNEY
OF
ANY
OTHER
PERSON
HAS
REPRESENTED,
EXPRESSLY
OR
OTHERWISE,
THAT
SUCH
OTHER
PERSON

WOULD
NOT,
IN
THE
EVENT
OF
LITIGATION,
SEEK
TO
ENFORCE
THE
FOREGOING
WAIVER

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AND
(B) ACKNOWLEDGES
THAT
IT
AND
THE
OTHER
PARTIES
HERETO
HAVE
BEEN
INDUCED
TO
ENTER
INTO
THIS
AGREEMENT
AND
THE
OTHER
LOAN
DOCUMENTS
BY,
AMONG
OTHER
THINGS,
THE
MUTUAL

WAIVERS
AND
CERTIFICATIONS
IN
THIS
SECTION.

SECTION

4.15 Confidentiality.

Each
of
the
Administrative
Agent
and
the
Lenders
agree
to
maintain
the
confidentiality
of
the
Information
(as
defined
below),
except
that
Information
may
be
disclosed
(a) to
its
Affiliates
and
to
its
Related
Parties
(it
being
acknowledged
and
agreed
by
the
Administrative

Agent
and
the
Lenders
that
any
Affiliate
or
Related
Party
of
such
Person
that
is
principally
involved
in
the
trading
or
hedging
of
commodities
does
not
need
to
know,
and
will
not
be
provided
with,
such
information
(other
than
a
limited
number
of
senior
employees
who
are
required,
in
accordance

with
industry
regulations
or
such
Person's
internal
policies
and
procedures,
to
act
in
a
supervisory
capacity
and
such
Person's
internal
legal,
compliance,
risk
management,
credit
or
investment
committee
members,
provided
that
no
such
persons
will
use
such
disclosed
confidential
information
in
connection
with
any
trading
or
hedging
of
commodities
of

such
Person
or
its
Affiliates))
who
are
informed
of
the
confidential
nature
of
such
Information
and
instructed
to
keep
such
Information
confidential;
(b) to
the
extent
required
or
requested
by
any
regulatory
authority
purporting
to
have
jurisdiction
over
such
Person
or
its
Related
Parties
(including
any
self-
regulatory
authority,
such
as

the
National
Association
of
Insurance
Commissioners);
(c) to
the
extent
required
by
applicable
laws
or
regulations
or
by
any
subpoena
or
similar
legal
process;
(d) to
any
other
party
hereto;
(e) in
connection
with
the
exercise
of
any
remedies
hereunder
or
under
any
other
Loan
Document
or
any
action
or
proceeding
relating
to

this
Agreement
or
any
other
Loan
Document
or
the
enforcement
of
rights
hereunder
or
thereunder;
(f) subject
to
an
agreement
containing
provisions
substantially
the
same
as
those
of
this
Section,
to
(i) any
assignee
of
or
Participant
in,
or
any
prospective
assignee
of
or
Participant
in,
any
of
its
rights
and
obligations

under
this
Agreement,
or
(ii) any
actual
or
prospective
party
(or
its
Related
Parties)
to
any
swap,
derivative
or
other
transaction
under
which
payments
are
to
be
made
by
reference
to
Borrower
and
its
obligations,
this
Agreement
or
payments
hereunder;
(g) on
a
confidential
basis
to
(i) any
rating
agency
in
connection
with

rating
Borrower
or
its
Subsidiaries
or
the
Facilities
or
(ii) the
CUSIP
Service
Bureau
or
any
similar
agency
in
connection
with
the
issuance
and
monitoring
of
CUSIP
numbers
with
respect
to
the
Facilities;
(h) with
the
consent
of
Borrower;
or
(i) to
the
extent
such
Information
(x) becomes
publicly
available
other
than
as
a

result
of
a
breach
of
this
Section,
or
(y) becomes
available
to
the
Administrative
Agent,
any
Lender
or
any
of
their
respective
Affiliates
on
a
nonconfidential
basis
from
a
source
other
than
Borrower;
provided
that
no
disclosure
shall
be
made
to
any
Disqualified
Lender.
In
addition,
the
Administrative
Agent
and
the

Lenders
may
disclose
the
existence
of
this
Agreement
and
information
about
this
Agreement
to
market
data
collectors,
similar
service
providers
to
the
lending
industry
and
service
providers
to
the
Agents
and
the
Lenders
in
connection
with
the
administration
of
this
Agreement,
the
other
Loan
Documents,
and
the
Advances;
provided
that

such
Persons
receiving
such
information
are
subject
to
confidentiality
obligations
substantially
similar
to
this
Section
9.15
or
as
may
be
reasonably
acceptable
to
Borrower.

For

purposes
of
this
Section,
"Information"
means
all
information
received
from
Borrower
relating
to
Borrower
or
any
of
their
respective
businesses,
other
than
any
such

information
that
is
available
to
the
Administrative
Agent
or
any
Lender
on
a
nonconfidential
basis
prior
to
disclosure
by
Borrower;
provided
that,
in
the
case
of
information
received
from
Borrower
after
the
date
hereof,
such
information
is
clearly
identified
at
the
time
of
delivery
as
confidential.

Any
Person
required
to
maintain
the
confidentiality
of
Information
as
provided
in
this
Section
shall
be
considered
to
have
complied
with
its
obligation
to
do
so
if
such
Person
has
exercised
the
same
degree
of
care
to
maintain
the
confidentiality
of
such
Information
as

such
Person
would
accord
to
its
own
confidential
information.

SECTION

4.16 Usury
Savings
Clause.
Notwithstanding
any
other
provision
herein,
the
aggregate
interest
rate
charged
with
respect
to
any
of
the
Obligations,
including
all
charges
or
fees
in
connection
therewith
deemed
in
the
nature
of
interest
under
applicable
law
shall
not

exceed
the
Highest
Lawful
Rate.
If
the
rate
of
interest
(determined
without
regard
to
the
preceding
sentence)
under
this
Agreement
at
any
time
exceeds
the
Highest
Lawful
Rate,
the
outstanding
amount
of
the
Advances
made
hereunder
shall
bear
interest
at
the
Highest
Lawful
Rate
until
the
total
amount
of
interest

due
hereunder
equals
the
amount
of
interest
which
would
have
been
due
hereunder
if
the
stated
rates
of
interest
set
forth
in
this
Agreement
had
at
all
times
been
in
effect.
In
addition,
if
when
the
Advances
made
hereunder
is
repaid
in
full
the
total
interest
due
hereunder
(taking
into

account
the
increase
provided
for
above)
is
less
than
the
total
amount
of
interest
which
would
have
been
due
hereunder
if
the
stated
rates
of
interest
set
forth
in
this
Agreement
had
at
all
times
been
in
effect,
then
to
the
extent
permitted
by
law,
Borrower
shall
pay
to
the

Administrative
Agent
an
amount
equal
to
the
difference
between
the
amount
of
interest
paid
and
the
amount
of
interest
which
would
have
been
paid
if
the
Highest
Lawful
Rate
had
at
all
times
been
in
effect.
Notwithstanding
the
foregoing,
it
is
the
intention
of
the
Lenders
and
Borrower
to
conform

strictly
to
any
applicable
usury
laws.
Accordingly,
if
any
Lender
contracts
for,
charges,
or
receives
any
consideration
which
constitutes
interest
in
excess
of
the
Highest
Lawful
Rate,
then
any
such
excess
shall
be
cancelled
automatically
and,
if
previously
paid,
shall
at
such
Lender's
option
be
applied
to
the
outstanding
amount

of
the
Advances
made
hereunder
or
be
refunded
to
Borrower.

SECTION

4.17 Counterparts;
Integration;
Effectiveness;
Electronic
Execution.

(a)

Counterparts;
Integration;
Effectiveness.

This
Agreement
may
be
executed
in
counterparts
(and
by
different
parties
hereto
in
different
counterparts),
each
of
which
shall
constitute
an
original,
but
all
of
which
when
taken
together

shall
constitute
a
single
contract.
This
Agreement
and
the
other
Loan
Documents,
and
any
separate
letter
agreements
with
respect
to
fees
payable
to
the
Administrative
Agent,
constitute
the
entire
contract
among
the
parties
relating
to
the
subject
matter
hereof
and
supersede
any
and
all
previous
agreements
and
understandings,
oral
or

written,
relating
to
the
subject
matter
hereof.
Except
as
provided
in
Section
4.01,
this
Agreement
shall
become
effective
when
it
shall
have
been
executed
by
the
Administrative
Agent
and
when
the
Administrative
Agent
shall
have
received
counterparts
hereof
that,
when
taken
together,
bear
the
signatures
of
each
of
the
other

parties
hereto.
Delivery
of
an
executed
counterpart
of
a
signature
page
of
this
Agreement
by
facsimile
or
in
electronic
(i.e.,
"pdf"
or
"tif")
format
shall
be
effective
as
delivery
of
a
manually
executed
counterpart
of
this
Agreement.

(b)

Electronic
Execution
of
Assignments.

The
words
"execution,"
"signed,"
"signature,"
and
words

of
like
import
in
this
Agreement
and
the
other
Loan
Documents
shall
be
deemed
to
include
electronic
signatures
or
the
keeping
of
records
in
electronic
form,
each
of
which
shall
be
of
the
same
legal
effect,
validity
or
enforceability
as
a
manually
executed
signature
or
the
use
of
a
paper-

based
recordkeeping
system,
as
the
case
may
be,
to
the
extent
and
as
provided
for

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in
any
applicable
law,
including
the
Federal
Electronic
Signatures
in
Global
and
National
Commerce
Act,
the
New
York
State
Electronic
Signatures
and
Records
Act,
or
any

other
similar
state
laws
based
on
the
Uniform Electronic
Transactions
Act.

SECTION

4.18 Patriot
Act.
Each
Lender
and
the
Administrative
Agent
(for
itself
and
not
on
behalf
of
any
Lender)
hereby
notifies
each
Borrower
that
pursuant
to
the
requirements
of
the
Patriot
Act
and
the
Beneficial
Ownership
Regulation,
it
is
required

to
obtain,
verify
and
record
information
that
identifies
Borrower,
which
information
includes
the
name
and
address
of
each
Borrower
and
other
information
that
will
allow
such
Lender
or
Administrative
Agent,
as
applicable,
to
identify
Borrower
in
accordance
with
the
Patriot
Act
and
the
Beneficial
Ownership
Regulation.
Each
Borrower
shall,
promptly

following
a
request
by
the
Administrative
Agent
or
any
Lender,
provide
all
documentation
and
other
information
that
the
Administrative
Agent
or
such
Lender
requests
in
order
to
comply
with
its
ongoing
obligations
under
applicable
"know
your
customer"
and
anti-
money
laundering
rules
and
regulations,
including
the
Patriot
Act
and
the

Beneficial
Ownership
Regulation.

SECTION

4.19 Collateral

Agent.
With
reference
to
the
role
of
the
Collateral
Agent
in
this
Agreement
and
any
other
Loan
Document,
all
of
the
rights,
privileges,
protections
and
indemnities
of
the
Collateral
Agent
set
forth
in
the
CTA
shall
apply
in
accordance
with
the
terms
thereof.

SECTION

4.20 Acknowledgment

and

Consent

to

Bail-

In

of

EEA

Financial

Institutions.

Notwithstanding

anything

to

the

contrary

in

any

Loan

Document

or

in

any

other

agreement,

arrangement

or

understanding

among

any

such

parties,

each

party

hereto

acknowledges

that

any

liability

of

any

EEA

Financial

Institution

arising

under

any

Loan

Document,

to

the
extent
such
liability
is
unsecured,
may
be
subject
to
the
Write-
Down
and
Conversion
Powers
of
an
EEA
Resolution
Authority
and
agrees
and
consents
to,
and
acknowledges
and
agrees
to
be
bound
by:

(a)

the
application
of
any
Write-
Down
and
Conversion
Powers
by
an
EEA
Resolution
Authority

to
any
such
liabilities
arising
hereunder
which
may
be
payable
to
it
by
any
party
hereto
that
is
an
EEA
Financial
Institution;
and

(b)

the
effects
of
any
Bail-
In
Action
on
any
such
liability,
including,
if
applicable:

(c)

a
reduction
in
full
or
in
part
or
cancellation
of

any
such
liability;

(d)

a
conversion
of
all,
or
a
portion
of,
such
liability
into
shares
or
other
instruments
of
ownership
in
such
EEA
Financial
Institution,
its
parent
undertaking,
or
a
bridge
institution
that
may
be
issued
to
it
or
otherwise
conferred
on
it,
and
that
such
shares
or

other
instruments
of
ownership
will
be
accepted
by
it
in
lieu
of
any
rights
with
respect
to
any
such
liability
under
this
Agreement
or
any
other
Loan
Document;
or

(e)

the
variation
of
the
terms
of
such
liability
in
connection
with
the
exercise
of
the
Write-
Down
and
Conversion

Powers
of
any
EEA
Resolution
Authority.

[SIGNATURE
PAGES
FOLLOW]

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

ACCEPTED
AND AGREED:
MONTANA
RENEWABLES,
LLC

By: /s/ Vincent
Donargo

Name: Vincent

Donargo
Title: Executive
Vice President &
Chief Financial
Officer

ACCEPTED
AND AGREED:
MONTANA
RENEWABLES
HOLDINGS
LLC

By: /s/ Vincent
Donargo

Name: Vincent

Donargo
Title: Executive
Vice President
& Chief
Financial
Officer

ACCEPTED AND
AGREED:
ISQ
INFRASTRUCTURE
CREDIT FUND U.S.
POOLING, L.P.,
As Lender

By: /s/ Sadek
Wahba
Name: Sadek
Wahba
Title: Authorized
Signatory

ACCEPTED
AND
AGREED:
DELAWARE
TRUST
COMPANY,
As
Administrative
Agent

By: /s/ Kelvin
Vargas
Name: Kelvin
Vargas
Title: Vice
President

Credit
Agreement
– Signature
Page

AMERICAS
120651159

-

Exhibit
10.2

■

COLLATERAL
TRUST
AND
INTERCREDITOR
AGREEMENT

Dated
as
of
April
19,
2023

among

MONTANA
RENEWABLES
HOLDINGS
LLC,
as
Holdings,

MONTANA
RENEWABLES,
LLC,
as
Company,

THE
OTHER
OBLIGORS
from
time
to
time

party
hereto,

DELAWARE
TRUST
COMPANY,
as
Administrative
Agent,

THE
OTHER
PARITY
LIEN
REPRESENTATIVES
from
time
to
time
party
hereto,

and

WILMINGTON
TRUST,
NATIONAL
ASSOCIATION,
as
Collateral
Trustee

-

-

TABLE
OF

CONTENTS







-
ii-

■

TABLE
OF
CONTENTS







■

TABLE
OF
CONTENTS



TABLE
OF
CONTENTS

Exhibits

Exhibit A	-	Form of Additional Parity Lien Debt Certificate
Exhibit B	-	Form of Collateral Trust Joinder (Additional Parity Lien Debt)
Exhibit C	-	Form of Collateral Trust Joinder (Additional Obligor)
Exhibit D	-	Form of Revenue Account Withdrawal Requisition

Exhibit E	-	Form of Operating and Maintenance Withdrawal Requisition
Exhibit F	-	Form of Debt Service Withdrawal Requisition
Exhibit G	-	Form of Insurance/Condemnation and Disposition Proceeds Withdrawal Requisition
Exhibit H	-	Form of Debt Proceeds Withdrawal Requisition
Exhibit I	-	Form of Surplus Withdrawal Requisition
Exhibit J	-	Debt Service Deficiency Certificate

-

**COLLATERAL
TRUST
AND
INTERCREDITOR
AGREEMENT**

This
COLLATERAL
TRUST
AND
INTERCREDITOR
AGREEMENT
(as
amended,
supplemented,
amended
and
restated
or
otherwise
modified
from
time

to
time
in
accordance
with
Section
8.1
hereof,
this
“Agreement”
is
dated
as
of
April
19,
2023
and
is
by
and
among
MONTANA
RENEWABLES
HOLDINGS
LLC,
a
Delaware
limited
liability
company
 (“Holdings”),
MONTANA
RENEWABLES,
LLC,
a
Delaware
limited
liability
company
(the
“Company
”),
the
other
Obligors
from
time
to
time

party
hereto,
DELAWARE
TRUST
COMPANY,
as
administrative
agent
for
the
Term
Lenders
(defined
below)
(in
such
capacity
and
together
with
its
successors
in
such
capacity,
the
"Administrative
Agent"),
the
other
Parity
Lien
Representatives
from
time
to
time
party
hereto,
and
WILMINGTON
TRUST,
NATIONAL
ASSOCIATION,
as
collateral
trustee
for
the
benefit

of
the
Parity
Lien
Secured
Parties
(in
such
capacity
and
together
with
its
successors
in
such
capacity,
the
"Collateral
Trustee").

RECITALS

WHEREAS,

the
Company
and
Stonebriar
Commercial
Finance
LLC,
a
Delaware
limited
liability
company
("Stonebriar")
are
parties
to
that
certain
Master
Lease
Agreement,
dated
as
of
December
31,
2021,

between
the
Company
as
seller
and
lessee
thereunder,
and
Stonebriar,
as
purchaser
and
lessor
thereunder,
as
supplemented
by
the
following
(such
Master
Lease
Agreement,
as
so
supplemented,
and
as
the
same
may
be
hereafter
amended,
restated,
supplemented
or
otherwise
modified
from
time
to
time,
is
hereinafter
referred
to
as
the

"Master
Lease
Agreement"):

A. Macquarie (a)

a
certain
Equipment
Schedule
No.
1,
dated
as
of
December
30,
2022,
between
the
Company
and
Stonebriar,
which
relates
to
a
hydrogen
plant
(the
"Hydrogen
Plant");
and

(b)

a
certain
Equipment
Schedule
No.
2,
dated
as
of
August
5,
2022,
between
the
Company
and
Stonebriar

which
relates
to
a
hydrocracker
and
related
equipment
(collectively,
the
"Hydrocracker
Equipment");

pursuant
to
which,
among
other
things,
Stonebriar
purchased
from,
and
leased
back
to,
the
Company,
the
Hydrogen
Plant
and
the
Hydrocracker
Equipment;

WHEREAS,
the
Company
entered
into and
Stonebriar
are
also
parties
to
that
certain
Supply
and
Offtake Interim

Funding
Agreement,
dated
November
2,
2022 August
5,
2022
(as
amended
by
the
First
Amendment
dated
December
30,
2022
and
as
otherwise same
may
be
amended,
restated,
supplement supplemented
or
otherwise
modified
from
time
to
time,
the
“Supply Interim
Funding
Agreement”
and
Offtake together
with
the
Master
Lease
Agreement
and
the
related
bills
of
sale

and
equipment
schedules
executed
by
the
parties
thereto,
collectively,
the
"Stonebriar
Sale
Leaseback
Documents
").

B. Macquarie

between
Stonebriar
as
lessor
and
the
Company
as
lessee,
pursuant
to
which,
among
other
things,
Stonebriar
leases
to
the
Company
a
feedstock
pretreater
facility
(the
"IFA
Equipment"
and
together
with
the
Hydrogen
Plant

and
the
Hydrocracker
Equipment,
collectively,
the
“Stonebriar
Financed
Equipment”)
(all
of
the
Indebtedness,
liabilities
and
obligations
of
the
Company
to
Stonebriar
under
the
Stonebriar
Sale
Leaseback
Documents
are
hereinafter
referred
to
as
the
“Stonebriar
Sale
Leaseback
Obligations”);

WHEREAS,

the
Company
has
entered
into
that
certain
Credit
Agreement
(the
“Term

Facility”),
dated
as
of
the
date
hereof
(as
the
same
may
be
amended,
restated,
amended
and
restated,
supplemented
or
otherwise
modified
from
time
to
time,
the
“Term
Loan
Agreement”),
by

▪

and
among
the
Company,
as
borrower,
Holdings,
the
lenders
party
thereto
(collectively,
the
“Term

Lenders”),
and
the
Administrative
Agent,
as
administrative
agent,
in
an
original
principal
amount
equal
to
\$75,000,000
(the
“Term
Loan”)
(a)
to
finance
project
costs
at
the
Company’s
facility
located
at
Great
Falls,
Montana,
(b)
to
fund
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account
(as
defined
below)
and
the
Term

Loan
IDC
Reserve
Account
(as
defined
below),
and
(c)
for
other
general
corporate
purposes,
and
the
parties
hereto
desire
to
provide
for
securing
the
obligations
under
such
Term
Loan
as
Parity
Lien
Debt;

WHEREAS,

Cascade
County,
Montana
(the
"Issuer"),
may
elect
to
issue
certain
Solid
Waste
Disposal
and
Sewage

Facilities
Revenue
Bonds
(Montana
Renewables,
LLC
Project)
Series
2023
(Green
Bonds)
in
the
aggregate
principal
amount
of
up
to
\$250,000,000
(the
"Initial
Bonds")
pursuant
to
an
Indenture
of
Trust
(the
"Indenture"),
entered
into
between
the
Issuer
and
Wilmington
Trust,
National
Association,
as
trustee
thereunder
(in
such
capacity
and
together
with

its
successors
in
such
capacity,
the
“Bond
Trustee”);

WHEREAS,

to
the
extent
issued,
the
Issuer
will
loan
to
the
Company
the
net
proceeds
of
the
Initial
Bonds
pursuant
to
a
Loan
Agreement
dated
as
of
the
date
of
the
Indenture
(as
the
same
may
be
amended
and
supplemented,
the

"Loan Agreement"),
by
and
between
the
Issuer
and
the
Company,
and
the
Company
will
use
such
proceeds
to
reimburse
itself
for
certain
costs
of
the
Project
described
in
the
Loan
Agreement;

WHEREAS,

the
Company
intends
to
secure
its
Obligations
under
the
Loan
Agreement
(when
and
if
borrowed),
the
Term

Loan
Agreement,
any
other
future
Parity
Lien
Debt
and
any
other
Parity
Lien
Obligations,
with
Liens
on
all
present
and
future
Collateral
to
the
extent
that
such
Liens
have
agreed been
provided
for
in
the
applicable
Parity
Lien
Security
Documents;
and

WHEREAS,

this
Agreement
sets
forth
the
terms
on
which

each
Parity
Lien
Secured
Party
(other
than
the
Collateral
Trustee)
has
appointed
Wilmington
Trust,
National
Association
to
amend
certain act
as
the
Collateral
Trustee
for
the
present
and
future
holders
of
the
Parity
Lien
Obligations
to
receive,
hold,
maintain,
administer
and
distribute
the
Collateral
at
any
time
delivered
to
the
Collateral

Trustee
or
the
subject
of
the
Parity
Lien
Security
Documents,
and
to
enforce
the
Parity
Lien
Security
Documents
and
all
interests,
rights,
powers
and
remedies
of
the
Collateral
Trustee
with
respect
thereto
or
thereunder
and
the
proceeds
thereof.

NOW,
THEREFORE,
in
consideration
of
the
premises
and
the
mutual
agreements

herein
set
forth,
the
receipt
and
sufficiency
of
which
are
hereby
acknowledged,
the
parties
to
this
Agreement
hereby
agree
as
follows:

ARTICLE 1

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1

Defined
Terms.
Capitalized
terms
used
in
this
Agreement
that
are
defined
in
the
recitals
hereto
have
the
meanings
specified
in
the

recitals.
In
addition,
the
following
terms
will
have
the
following
meanings:

“Act
of
Parity
Lien
Debtholders”
means,
as
to
any
matter
at
any
time,
a
direction
in
writing
delivered
to
the
Collateral
Trustee
by
or
with
the
written
consent
of
(a)
prior
to
the
Enforcement

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2

■

Date,
the
holders
of
Parity
Lien
Debt
representing
the
Required
Parity
Lien
Debtholders,
and
(b)
from
and
after
the
Enforcement
Date,
the
Term
Lenders.

“Additional
Bonds”
has
the
meaning
given
to
such
term
in
the
Indenture.

“Additional
Mortgage
Instrument”
has
the
meaning
set
forth
in
Section
4.8(g).
(i).

"Additional
Parity
Lien
Debt"
has
the
meaning
set
forth
in
Section
4.8(b).
(i).

"Additional
Parity
Lien
Debt
Certificate"
means
a
notice
in
substantially
the
form
of
Exhibit A.

"Additional
Secured
Debt
Designation"
means
the
written
agreement
of
the
holders
of
any
Series of
Parity
Lien
Debt
or
their
Parity
Lien
Representative,

as
set
forth
in
the
indenture,
credit
agreement,
or
other
agreement
governing
such
Series of
Parity
Lien
Debt,
for
the
benefit
of
all
holders
of
each
existing
and
future
Series
of
Parity
Lien
Debt,
the
Collateral
Trustee
and
each
existing
and
future
holder
of
Parity
Liens:

(a)

that
all
Parity

Lien
Obligations
will
be
and
are
secured
equally
and
ratably
by
all
Parity
Liens
at
any
time
granted
by
an
Obligor
to
secure
any
Obligations
in
respect
of
such
Series of
Parity
Lien
Debt,
whether
or
not
upon
property
otherwise
constituting
collateral
for
such
Series of
Parity
Lien
Debt,
and
that
all

such
Parity
Liens
will
be
enforceable
by
the
Collateral
Trustee
for
the
benefit
of
all
holders
of
Parity
Lien
Obligations
equally
and
ratably;

(b)

that
the
holders
of
Obligations
in
respect
of
such
Series of
Parity
Lien
Debt
are
bound
by
the
provisions
of
this
Agreement,
including
the
provisions
relating

to
the
order
of
application
of
proceeds
from
the
enforcement
of
Parity
Liens;
and

(c)
consenting
to
and
directing
the
Collateral
Trustee
to
perform
its
obligations
under
this
Agreement
and
the
Parity
Lien
Security
Documents.

"Administrative
Fees
and
Expenses"
means
all
application,
commitment,
financing,
account
administration,
investment,
costs,

indemnities,
and
expenses
due
and
payable
to
the
Parity
Lien
Secured
Parties
pursuant
to
this
Agreement,
the
other
Parity
Lien
Documents
or
the
written
agreements
between
the
Company
and
a
Parity
Lien
Secured
Party.

"Affiliate"

of
any
specified
Person
means
any
other
Person
directly
or
indirectly
controlling
or
controlled

by
or
under
direct
or
indirect
common
control
with
such
specified
Person.
For
purposes
of
this
definition,
"control,"
as
used
with
respect
to
any
Person,
means
the
possession,
directly
or
indirectly,
of
the
power
to
direct
or
cause
the
direction
of
the
management
or
policies
of
such
Person,
whether
through

the
ownership
of
voting
securities,
by
agreement
or
otherwise;
provided,
however,
that
beneficial
ownership
of
10%
or
more
of
the
Voting
Stock
of
a
Person
will
be
deemed
to
be
control
by
the
other
Person;
and
further,
that
any
third
Person
which
also
beneficially
owns
10%
or
more
of
the

Voting
Stock
of
a
specified
Person
shall
not
be
deemed
to
be
an
Affiliate
of
either
the
specified
Person
or
the
other
Person
merely
because
of
such
common
ownership
in
such
specified
Person.
For
purposes
of
this
definition,
the
terms
"controlling,"
"controlled
by"
and
"under
common
control
with"
have

correlative
meanings.

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3

■

“Agreement”

has
the
meaning
set
forth
in
the
preamble.

“Asset

Sale
Proceeds”
shall
have
the
meaning
given
to
such
term
in
the
Term
Loan
Agreement.

“Authorized

Company
Representative”
means
the
Person
or
Persons
designated
at
the
time
to
act

on
behalf
of
the
Company
by
written
instrument
furnished
to
the
Collateral
Trustee,
containing
the
specimen
signature
of
such
Person
or
Persons
and
signed
by
any
officer
of
the
Company.
Such
instrument
may
designate
an
alternate
or
alternates.

"Bankruptcy

Code"

means

Title

11

of

the

United

States

Code

entitled

"Bankruptcy,"
as
now
and
hereafter
in
effect,
or
any
successor
statute.

"Bond
Debt
Service
Reserve
Account"
means
the
Debt
Service
Reserve
Account
(as
defined
in
the
Indenture),
created
in
the
name
of
and
held
by
the
Bond
Trustee
under
the
Indenture.

"Bond
Debt
Service
Reserve
Deficiency
Account"
has
the

meaning
set
forth
in
Section
3.6.

“Bond
Debt
Service
Reserve
Fund
Requirement”
has
the
meaning
provided
in
the
Indenture.

“Bond
Debt
Service
Transfer
Account”
has
the
meaning
set
forth
in
Section
3.4(a).
(i).

“Bond
Default”
means
any
event
or
condition
that
constitutes
an
“Event
of
Default”
or

a
"Termination
Event"
(or
terms
of
similar
import),
where
the
Company
is
the
sole
"Defaulting
Party"
or
the
sole
"Affected
Party"
(or
terms
of
similar
import),
respectively,
under,
and
as
defined
in,
any
Parity
Lien
Document
related
to
any
Bonds
(when
and
if
issued).

"Bond
Interest
Sub-
Account"
has

the
meaning
set
forth
in
Section
3.4(a).
(i).

“Bond
Principal
Sub-
Account”
has
the
meaning
set
forth
in
Section
3.4(a).
(i).

“Bond
Trust
Accounts”
means
the
Bond
Debt
Service
Transfer
Account
(including
all
sub-
accounts
therein),
the
Bond
Debt
Service
Reserve
Deficiency
Account
and
the
Rebate
Transfer
Account.

“Bond
Trustee”
means
the
nominee
of
the
holders
of
the
Bonds
under
the
Indenture.

“Bonds”
means,
collectively,
the
Initial
Bonds
and
the
Additional
Bonds
for
which
the
requirements
set
forth
in
Section
4.8
of
this
Agreement
have
been
satisfied.

“Business
Day.”
means
any
day
other
than
a
Saturday,
Sunday

or
other
day
on
which
commercial
banks
are
authorized
by
law
to
close,
or
are
in
fact
closed,
in
New
York
City
or
in
the
city
where
the
corporate
trust
office
of
the
Collateral
Trustee
is
located.

“Calumet”

means
Calumet
Specialty
Products
Partners,
L.P.,
a
publicly
traded
Delaware

limited
partnership.

135376969.9

4

■

“Calumet
Montana”
means
Calumet
Montana
Refining,
LLC,
a
Delaware
limited
liability
company.

“Calumet
MSA
Consent”
shall
mean
that
certain
Direct
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Calumet
Montana,
Company
and
the
Collateral
Trustee.

"Capital
Stock"
means
(a) in
the
case
of
a
corporation,
corporate
stock,
(b) in
the
case
of
an
association
or
business
entity,
any
and
all
shares,
interests,
participations,
rights
or
other
equivalents
(however
designated)
of
corporate
stock,
(c) in
the
case
of
a
partnership
or
limited
liability
company,
partnership
interests
(whether
general
or

limited)
or
membership
interests,
and
(d) any
other
interest
or
participation
that
confers
on
a
Person
the
right
to
receive
a
share
of
the
profits
and
losses
of,
or
distributions
of
assets
of,
the
issuing
Person.

"Capitalized
Leases"
means,
as
applied
to
any
Person,
any
lease
of
any
Property
by

that
Person
as
lessee
that,
in
conformity
with
GAAP,
is
or
should
be
accounted
for
as
a
financing
lease
on
the
balance
sheet
of
that
Person.

“Cash
Equivalents”
means
any
of
the
following
types
of
investments,
to
the
extent
owned
by
the
Company
or
any
of
its
Subsidiaries:

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

(b)
securities
issued
by
any
state
of
the
United
States
of
America
or
any
political
subdivision
of
any
such
state
or
any
public
instrumentality
thereof
having
maturities
of
not
more
than
one
year
from
the
date
of
acquisition
thereof
and,
at
the
time
of
acquisition,
having
a
rating
of
AA-

or
higher
from
S&P
or
Aa3
or
higher
from
Moody's
(or,
at
any
time
that
neither
S&P
nor
Moody's
rates
such
obligations,
an
equivalent
rating
from
another
nationally
recognized
rating
service);

(c)
investments
in
commercial
paper
maturing
within
270
days
from
the
date
of
acquisition
thereof
and
having,
at

such
date
of
acquisition,
a
rating
of
at
least
A-
1
or
P-
1
from
either
S&P
or
Moody's
(or,
at
any
time
that
neither
S&P
nor
Moody's
rates
such
obligations,
an
equivalent
rating
from
another
nationally
recognized
rating
service);

(d)
investments
in
certificates
of
deposit,
banker's
acceptances
and

time
deposits
maturing
within
270
days
from
the
date
of
acquisition
thereof
issued
or
guaranteed
by
or
placed
with,
and
money
market
deposit
accounts
issued
or
offered
by,
any
domestic
office
of
any
commercial
bank
organized
under
the
laws
of
the
United
States
of
America,
any
State
thereof,
any
country

that
is
a
member
of
the
Organization
for
Economic
Cooperation
and
Development
or
any
political
subdivision
thereof,
that
has
a
combined
capital
and
surplus
and
undivided
profits
of
not
less
than
\$500,000,000;

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-

(e)
fully
collateralized
repurchase
agreements
with
a
term
of
not

more
than
30
days
for
securities
described
in
clause
(a)
above
and
entered
into
with
a
financial
institution
satisfying
the
criteria
of
clause
(d)
above;

(f)

an
interest
bearing
account
maintained
by
the
Collateral
Trustee
or
its
Affiliate
with
earnings
based
on
the
daily
federal
funds
effective
rate
as

determined
by
the
Federal
Reserve
Bank
of
New
York;
and

(g)
investments
in
“money
market
funds”
within
the
meaning
of
Rule
2a-
7
of
the
Investment
Company
Act
of
1940,
as
amended,
substantially
all
of
whose
assets
are
invested
in
investments
of
the
type
described
in
clauses
(a)
through

(e)
above.

"Collateral"

means
all
Property
(including
Capital
Stock)
of
the
Obligors,
now
owned
or
hereafter
acquired,
upon
which
a
Lien
is
purported
to
be
created
by
a
Parity
Lien
Security
Document,
other
than
any
Excluded
Property
(as
may
be
defined
in
each
such
Parity
Lien
Security
Document).

“Collateral
Trustee”
has
the
meaning
set
forth
in
the
preamble.

“Collateral
Trust
Joinder”
means
(i) with
respect
to
the
provisions
of
this
Agreement
relating
to
any
Additional
Parity
Lien
Debt,
an
agreement
substantially
in
the
form
of
Exhibit B,
and
(ii) with
respect
to
the
provisions
of
this
Agreement
relating
to
the

addition
of
additional
Obligors,
an
agreement
substantially
in
the
form
of
Exhibit C.

"Company"
has
the
meaning
set
forth
in
the
preamble.

"Condemnation
Proceeds"
has
the
meaning
given
to
the
term
"Eminent
Domain
Proceeds"
in
the
Term
Loan
Agreement.

"Consent"
means
(a)
the
Stonebriar
Consent,
(b)
Lease
Agreement
Estoppel,

(c)
Calumet
MSA
Consent,
and
(d)
each
other
consent
to
collateral
assignment
entered
into
on
or
after
the
date
hereof
pursuant
to
the
terms
of
the
Parity
Lien
Documents.

"Debt
for
Borrowed
Money"
means,
for
any
Person,
at
any
date
of
determination,
the
sum,
without
duplication,
of
(a)
all

items
that,
in
accordance
with
GAAP,
would
be
classified
as
indebtedness
for
borrowed
money
on
a
balance
sheet
of
such
Person
at
such
date,
and
(b)
all
obligations
of
such
Person
under
acceptance,
letter
of
credit
or
similar
facilities
at
such
date,
but
excluding
Indebtedness
in
respect
of
Capitalized
Leases

and
purchase
money
debt.

“Debt
Proceeds”
means
the
cash
proceeds
of
any
Indebtedness
incurred
by
any
Obligor.

“Debt
Proceeds
Account”
has
the
meaning
set
forth
in
Section
3.10(a).

“Debt
Proceeds
Withdrawal
Requisition”
means
a
requisition
by
the
Company
for
withdrawals
from
the
Debt
Proceeds
Account
in
substantially
the

form
attached
hereto
as
Exhibit
H.

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▪

“Debt
Service
Deficiency
Certificate”
means
a
certificate
substantially
the
form
attached
hereto
as
Exhibit
J.

“Debt
Service
Reserve
Deficiency
Accounts”
means,
collectively,
the
Bond
Debt
Service
Reserve
Deficiency
Account,
the
Term
Loan
Debt
Service
Reserve
Deficiency

Account
and
the
Term
Loan
IDC
Reserve
Account.

“Debt
Service
Transfer
Accounts”
mean,
collectively,
the
Bond
Debt
Service
Transfer
Account,
the
Term
Loan
Debt
Service
Transfer
Account,
and
the
General
Debt
Service
Transfer
Account.

“Distribution
Date”
shall
mean
a
date
on
which
the
Company
is
permitted
to
make
Restricted

Payments
under
each
of
the
Parity
Lien
Documents.

“Employee
Benefit
Plan”
means
any
“employee
benefit
plan”
as
defined
in
Section
3(3)
of
ERISA
which
is
or
was
adopted,
sponsored,
maintained
or
contributed
to
by,
or
required
to
be
contributed
to
by,
Company
or
any
of
their
respective
ERISA
Affiliates

(as
such
term
is
defined
in
the
Term
Loan
Agreement),
or
with
respect
to
or
in
connection
with
which
Company
could
have
any
actual
or
contingent
liability.

"Enforcement

Date"
means
the
first
day
following
the
period
of
90
calendar
days
commencing
upon
the
earlier
of
notice
to
the
Collateral

Trustee
of
any
of
(a)
the
failure
of
the
Company
or
any
Obligor
to
pay
any
principal,
interest,
fee
or
other
amount
required
to
be
paid
under
the
Term
Loan
Agreement
resulting
in
an
Event
of
Default
under
and
as
defined
in
the
Term
Loan
Agreement
or
(b)
the
acceleration

of
Indebtedness
under
the
Term
Loan
Agreement
in
accordance
with
the
terms
therein;
provided
that
the
Enforcement
Date
shall
be
stayed
and
shall
not
occur
and
shall
be
deemed
not
to
have
occurred
with
respect
to
any
Collateral
(i)
at
any
time
the
Required
Parity
Lien
Debtholders
have
commenced
and

is
diligently
pursuing
any
enforcement
action
with
respect
to
such
Collateral,
or
(ii)
at
any
time
the
Obligor
which
has
granted
a
security
interest
in
such
Collateral
is
then
a
debtor
under
or
with
respect
to
(or
otherwise
subject
to)
any
Insolvency
or
Liquidation
Proceeding.

“ERISA”
means
the
Employee

Retirement
Income
Security
Act
of 1974,
as
amended
from
time
to
time,
and
any
successor
thereto.

“Event
of
Damage”
has
the
meaning
assigned
to
the
term
“Casualty
Event”
in
the
Term
Loan
Agreement.

“Excess
Cash
Flow
Prepayment”
means
the
prepayment
specified
in
Section
2.04(b)
(i)
of
the
Term
Loan
Agreement.

"Feedstock
Purchase
Agreements"
means,
whether
one
or
more,
(a)
the
Supply
and
Offtake
Agreement,
and
each dated
as
of
November
2,
2022,
between
Macquarie
and
the
Company;
and
(b)
any
other
agreement
for
the
purchase
of
materials
to
be
used
as
feedstock
for
the
Project,
including
without
limitation
any
purchase
order

to
the
same
effect,
as
any
such
agreement
may
from
time
to
time
be
supplemented,
modified,
replaced
or
amended
(and
expressly
so
described
therein
as
such
for
the
avoidance
of
doubt)
in
accordance
with
the
terms
thereof,
this
Agreement
and
as
permitted
by
each
of
the
Parity
Lien
Documents.

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“Financial
Assets”
has
the
meaning
set
forth
in
Section
3.16(d).

“Financing
Documents”
has
the
meaning
set
forth
in
the
Loan
Agreement.

“Flow
of
Funds
Termination
Date”
has
the
meaning
set
forth
in
Section
3.12.

“GAAP”
means
generally
accepted
accounting
principles
as

in
effect
from
time
to
time
in
the
United
States,
consistently
applied.

“General
Debt
Interest
Sub-
Account”
has
the
meaning
set
forth
in
Section
3.4(a).
(iii).

“General
Debt
Principal
Sub-
Account”
has
the
meaning
set
forth
in
Section
3.4(a).
(iii).

“General
Debt
Service
Transfer
Account”
has
the
meaning

set
forth
in
Section
3.4(a).
(iii).

"Guarantee"

means
a
guarantee
by
any
Person
other
than
by
endorsement
of
negotiable
instruments
for
collection
in
the
ordinary
course
of
business,
direct
or
indirect,
in
any
manner
including,
without
limitation,
by
way
of
a
pledge
of
assets,
acting
as
co-
obligor
or

through
letters
of
credit
or
reimbursement
agreements
in
respect
thereof,
of
all
or
any
part
of
any
Indebtedness
of
any
other
Person.

“Hague
Securities
Convention”
shall
mean
the
Convention
on
the
Law
Applicable
to
Certain
Rights
in
Respect
of
Securities
Held
with
an
Intermediary
(concluded
July
5,
2006),
which

became
effective
in
the
United
States
on
April
1,
2017.

“Holdings”

has
the
meaning
set
forth
in
the
preamble.

“Hydrocracker

Equipment”
has
the
meaning
set
forth
in
the
recitals.

“Hydrogen

Plant”
has
the
meaning
set
forth
in
the
recitals.

“IDC

Reserve
Fund
Requirement”
has
the
meaning
given

to
the
term
in
the
Term
Loan
Agreement.

“IFA
Equipment”
has
the
meaning
set
forth
in
the
recitals.

“Indebtedness”
means,
with
respect
to
any
specified
Person,
any
indebtedness
of
such
Person
for:

(a)
all
Debt
for
Borrowed
Money;

(b)
that
portion
of
obligations
with
respect
to
Capitalized

Leases
that
is
properly
classified
as
a
liability
on
a
balance
sheet
in
conformity
with
GAAP;

(c)

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

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(d)

all
obligations
of
such
Person
under
conditional
sale
or
other
title
retention
agreements
relating
to
property
acquired
by
such
Person;

(e)

any
obligation
owed
for
all
or
any
part
of
the
deferred
purchase
price
of
property
or
services
(excluding
any
such
obligations
incurred
under
an
Employee
Benefit

Plan),
which
purchase
price
is
due
more
than
six
months
from
the
date
of
incurrence
of
the
obligation
in
respect
thereof;

(f)
all
indebtedness
secured
by
any
Lien
on
any
property
or
asset
owned
or
held
by
such
Person
regardless
of
whether
the
indebtedness
secured
thereby
shall
have
been

assumed
by
such
Person
or
is
nonrecourse
to
the
credit
of
that
Person;

(g)

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

(h)

the
direct
or
indirect
guaranty,
endorsement

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

(i)
any
obligation
of
such
Person
the
primary
purpose
or
intent
of
which
is
to
provide
assurance
to
an
obligee

that
the
obligation
of
the
obligor
thereof
will
be
paid
or
discharged,
or
any
agreement
relating
thereto
will
be
complied
with,
or
the
holders
thereof
will
be
protected
(in
whole
or
in
part)
against
loss
in
respect
thereof;

(j)

all
obligations
of
such
Person
under
Sale
Leasebacks;

(k)
any
liability
of
such
Person
for
an
obligation
of
another
through
any
agreement
(contingent
or
otherwise)
(l)
to
purchase,
repurchase
or
otherwise
acquire
such
obligation
or
any
security
therefor,
or
to
provide
funds
for
the
payment
or
discharge
of
such
obligation
(whether
in
the
form
of
loans,
advances,
stock

purchases,
capital
contributions
or
otherwise)
or
(ii)
to
maintain
the
solvency
or
any
balance
sheet
item,
level
of
income
or
financial
condition
of
another;
and

(I)
all
obligations
of
such
Person
in
respect
of
any
exchange
traded
or
over
the
counter
derivative
transaction
whether
entered
into
for
hedging
or

speculative
purposes.

"Indemnified
Liabilities"
means
any
and
all
liabilities
(including
all
environmental
liabilities),
obligations,
losses,
damages,
penalties,
actions,
judgments,
suits,
costs,
taxes,
expenses
or
disbursements
of
any
kind
or
nature
whatsoever
with
respect
to
the
execution,
delivery,
performance,
administration
or
enforcement
of
this
Agreement
or
any
of
the
other

Parity
Lien
Security
Documents,
including
any
of
the
foregoing
relating
to
the
use
of
proceeds
of
any
Parity
Lien
Debt
or
the
violation
of,
noncompliance
with
or
liability
under,
any
law
(including
environmental
laws)
applicable
to
or
enforceable
against
Holdings,
any
Subsidiary
of
Holdings
or
the
Company
or
any
of

the
Collateral
and
all
reasonable
costs
and
expenses
(including
reasonable
fees
and
expenses
of
legal
counsel
selected
by
the
Indemnitee)
incurred
by
any
Indemnitee
in
connection
with
any
claim,
action,
investigation
or
proceeding
in
any
respect
relating
to
any
of
the
foregoing,
whether
or
not
suit
is
willing brought.

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■

“Indemnatee”

has
the
meaning
set
forth
in
Section
8.10(a).

“Indenture”

has
the
meaning
set
forth
in
the
recitals.

“Initial

Bonds”
has
the
meaning
set
forth
in
the
preamble.

“Insurance/Condemnation

Proceeds”
means
(a)
any
Insurance
Proceeds
received
following
an
Event
of
Damage,
(b)

any
Condemnation
Proceeds
received
following
an
Event
of
Taking,
and
(c)
any
termination
payments
received
by
Company
under
any
Material
Contract.

"Insurance/Condemnation
and
Disposition
Proceeds
Account"
has
the
meaning
set
forth
in
Section
3.9(a).

"Insurance/Condemnation
and
Disposition
Proceeds
Withdrawal
Requisition"
means
a
requisition
by
the
Company
for
withdrawals
from

the
Insurance/Condemnation
and
Disposition
Proceeds
Account
in
substantially
the
form
attached
hereto
as
Exhibit
G.

“Insurance
Proceeds”
means
insurance
proceeds
or
other
compensation,
awards,
damages
and
other
payments
or
relief
(exclusive,
in
each
case,
of
the
proceeds
of
liability
insurance,
delay
in
start-
up
insurance
and
business
interruption
insurance

and
other
payments
for
interruption
of
operations)
with
respect
to
any
Event
of
Damage.

"Insolvency.

or
Liquidation
Proceeding"
means:

(a)

any
case
commenced
by
or
against
Holdings,
the
Company,
any
other
Material
Subsidiary
or
any
Obligor
under
the
Bankruptcy
Code
or
any
similar
federal
or
state
law
for
the

relief
of
debtors,
any
other
proceeding
for
the
reorganization,
recapitalization
or
adjustment
or
marshalling
of
the
assets
or
liabilities
of
Holdings,
the
Company,
any
other
Material
Subsidiary
or
any
Obligor,
any
receivership
or
assignment
for
the
benefit
of
creditors
relating
to
Holdings,
the
Company,
any
other
Material
Subsidiary
or
any

Obligor
or
any
similar
case
or
proceeding
relative
to
Holdings,
the
Company,
any
other
Material
Subsidiary
or
any
Obligor
or
its
creditors,
as
such,
in
each
case
whether
or
not
voluntary;

(b)
any
liquidation,
dissolution,
marshalling
of
assets
or
liabilities
or
other
winding
up
of
or
relating
to
Holdings,

the
Company,
any
other
Material
Subsidiary
or
any
Obligor,
in
each
case,
whether
or
not
voluntary
and
whether
or
not
involving
bankruptcy
or
insolvency;
or

(c)

any
other
proceeding
of
any
type
or
nature
in
which
substantially
all
claims
of
creditors
of
Holdings,
the
Company,
any
other
Material
Subsidiary

or
any
Obligor
are
determined
and
any
payment
or
distribution
is
or
may
be
made
on
account
of
such
claims.

"Intercompany

Loan

Agreement"

means

the

Intercompany

Loan

Agreement,

dated

as

of

January

5,

2023,

between

the

Company,

as

borrower,

and

Calumet,

as

lender.

"Inventory

Agreements"

means,

whether

one

or
more,
(a)
the
Supply
and
Offtake
Agreement,
dated
as
of
November
2,
2022,
between
Macquarie
and
the
Company;
and
(b)
any

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-

other
agreement
for
the
purchase
of
materials
to
be
used
as
feedstock
for
the
Project,
including
without
limitation
any
purchase
order

to
the
same
effect,
as
any
such
agreement
may
from
time
to
time
be
supplemented,
modified,
replaced
or
amended
(and
expressly
so
described
therein
as
such
for
the
avoidance
of
doubt)
in
accordance
with
the
terms
thereof
and
of
this
Agreement.

"Investment
Securities"
means,
collectively,
cash
and
Cash
Equivalents.

"ISDA
Master
Agreement"
means
any
form
of
master
agreement
published
by
the
International
Swaps
and
Derivatives
Association,
Inc.,
any
International
Foreign
Exchange
Master
Agreement,
or
any
other
master
agreement
relating
to
transactions
of
the
type
described
in
clause
(a)
of
the
definition
of
"Swap
Contract"
contained
therein,
together
with
any

related
schedules.

"Issuer"

has
the
meaning
set
forth
in
the
recitals.

"Lien"

means,
with
respect
to
any
asset,
any
mortgage,
lien,
pledge,
charge,
security
interest
or
encumbrance
of
any
kind
in
respect
of
such
asset,
whether
or
not
filed,
recorded
or
otherwise
perfected
under
applicable
law,
including
any
conditional

sale
or
other
title
retention
agreement,
any
lease
in
the
nature
thereof,
any
option
or
other
agreement
to
sell
or
give
a
security
interest
in
and
any
filing
of
or
agreement
to
give
any
financing
statement
under
the
UCC
(or
equivalent
statutes)
of
any
jurisdiction
other
than
a
precautionary
financing

statement
respecting
a
lease
not
intended
as
a
security
agreement.

“Loan
Documents”
has
the
meaning
set
forth
in
the
Term
Loan
Agreement.

“Macquarie”
means
Macquarie
Energy
North
America
Trading,
Inc.,
a
Delaware
corporation,
together
with
its
successors
and
assigns.

“Macquarie
Letter
Agreement”
means
that
certain
Letter
Agreement,

dated
on
or
about
the
date
hereof,
and
entered
into
between
Macquarie,
Company
and
the
Collateral
Trustee.

“Major
Maintenance
Expenses”
shall
mean
all
expenses
incurred
by
the
Company
or
an
Obligor
(including
for
labor)
for
regularly
scheduled
(or
reasonably
anticipated)
major
maintenance
of
the
Project
(including
teardowns,
overhauls,
capital

improvements
and
replacements
of
major
components
of
the
Project)
in
accordance
with
good
industry
practices
and
vendor
and
supplier
recommendations.

“Master
Services
Agreement”
means
the
Master
Services
Agreement,
dated
as
of
November
18,
2021,
by
and
between
Company
and
Calumet
Montana.

“Material
Contract”
has
the
meaning
set
forth

in
the
Term
Loan
Agreement.

“Material
Subsidiary”
means
each
direct
or
indirect
Subsidiary
of
the
Company
that
(a)
owns
5%
or
more
of
the
consolidated
total
assets
of
the
Company
and
its
Subsidiaries,
(b)
generates
5%
or
more
of
the
consolidated
revenues
of
the
Company
and
its
Subsidiaries,
(c)

is
the
owner
of
the
Capital
Stock
of
any
other
Material
Subsidiary
of
the
Company,
or
(d)
each
member
of
any
group
comprising
direct
or
indirect
Subsidiaries
of
the
Company
that
each
would
not
have
been
a
Material
Subsidiary
under
clauses
(a),
(b),
or
(c)
but
that,
taken
together,
had

revenues
or
total
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assets
in
excess
of
5%
of
the
consolidated
revenues
or
total
assets,
as
applicable,
of
the
Company
and
its
Subsidiaries.
Any
Subsidiary
that
at
any
time
qualifies
as
a
Material
Subsidiary
pursuant
to
the
qualifications
of
this
definition
shall
remain

a
Material
Subsidiary
notwithstanding
any
subsequent
failure
to
qualify
hereunder.

“Membership
Interest
Pledge
Agreement”
means
that
certain
Membership
Interest
Pledge
Agreement,
dated
of
even
date
herewith,
by
and
between
Holdings
as
the
pledgor
thereunder
and
the
Collateral
Trustee,
as
the
same
may
be
amended,
restated,
supplemented
or
otherwise
modified

from
time
to
time.

“Monthly
Funding
Date”
means
the
25th
day
of
each
calendar
month,
or
if
such
date
is
not
a
Business
Day,
the
immediately
preceding
Business
Day.

“Moody’s”
means
Moody’s
Investors
Service,
Inc.

“Mortgage
Instrument”
means
each
of
the
mortgages,
leasehold
mortgages,
deeds
of
trust,
leasehold

deeds
of
trust
or
Additional
Mortgage
Instruments,
to
secure
debt
(as
the
same
may
be
amended,
modified,
restated
or
supplemented
from
time
to
time)
from
the
applicable
Obligor
in
favor
of
the
Collateral
Trustee,
on
behalf
of
the
Parity
Lien
Secured
Parties,
encumbering
the
fee
interest
and/or
leasehold
interest
of

such
Obligor
in
the
Real
Properties
specified
therein.

“Mortgaged
Properties”
means
each
of
the
Real
Properties
that
is
subject
to
a
Mortgage
Instrument,
or
required
by
any
Parity
Lien
Document
to
become
subject
to
a
Mortgage
Instrument,
but
excluding
any
such
Real
Properties
in
which
the
Collateral
Trustee’s
Liens

are
from
time
to
time
released
pursuant
to
this
Agreement.

“Net
Revenues”
means
Project
Revenues
less
Operating
and
Maintenance
Expenses.

“Obligations”
means
any
obligations
of
any
kind,
whether
fixed
or
contingent,
matured
or
unmatured,
including
any
principal,
premium,
if
any,
interest
(including
interest
accruing
on
or
after
the
filing

of
any
petition
in
bankruptcy
or
for
reorganization,
whether
or
not
a
claim
for
post-
filing
interest
is
allowed
in
such
proceeding),
penalties,
fees,
charges,
expenses,
indemnifications,
reimbursement
obligations,
damages,
guarantees,
and
other
liabilities
or
amounts
payable
under
the
documentation
governing
any
Indebtedness
or
in
respect
thereto
(including,
without
limitation,

all
Obligations
under
(and
as
defined
in)
the
Term
Loan
Agreement
and
the
other
Loan
Documents).

“Obligor”

means
(a)
Company,
(b)
Holdings,
(c)
each
Person
who
has
guaranteed
payment
of
any
Parity
Lien
Obligations
pursuant
to
a
Guarantee,
in
each
case
until
their
respective
Guarantee
of
all
Parity
Lien

Obligations
is
released
in
accordance
with
the
terms
of
the
applicable
Parity
Lien
Documents,
and
(d)
any
other
Person
that
at
any
time
provides
collateral
security
for
any
Parity
Lien
Obligations,
in
each
case,
including
their
respective
successors
and
assigns.

"Officers'
Certificate"
means
a
certificate
with
respect
to
compliance

with
a
condition
or
covenant
provided
for
in
this
Agreement,
signed
on
behalf
of
the
Company
by
two
officers
of
the
Company,
one
of
whom
must
be
the
principal
executive
officer,
the
principal
financial
officer,
the
treasurer
or
the
principal
accounting
officer
of
the
Company,
including:

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■

(a)

a
statement
that
the
Person
making
such
certificate
has
read
such
covenant
or
condition;

(b)

a
brief
statement
as
to
the
nature
and
scope
of
the
examination
or
investigation
upon
which
the
statements
or
opinions
contained
in
such
certificate
are
based;

(c)

a
statement
that,
in
the

opinion
of
such
Person,
he
or
she
has
made
such
examination
or
investigation
as
is
necessary
to
enable
him
or
her
to
express
an
informed
opinion
as
to
whether
or
not
such
covenant
or
condition
has
been
satisfied;
and

(d)

a
statement
as
to
whether
or
not,
in
the

opinion
of
such
Person,
such
condition
or
covenant
has
been
satisfied.

"Operating
Account"
means
the
deposit
account
subject
to
the
Wells
Fargo
Operating
DACA.

"Operating
and
Maintenance
Account"
has
the
meaning
set
forth
in
Section
3.3(a).

"Operating
and
Maintenance
Expenses"
means
(a)
cash
maintenance
and
operation
costs
(including

all
Major
Maintenance
Expenses,
but
excluding
payments
in
respect
of
Parity
Lien
Debt)
due
and
payable
or
that
will
be
incurred
or
become
due
and
payable
during
the
following
35
days
in
connection
with
the
operation
and
maintenance
of
the
Project,
consistent
with
material
project
contracts
and
prudent
industry
practice,

including,
without
limitation,
payments
pursuant
to
any
Feedstock
Purchase
Agreement,
Administrative
Fees
and
Expenses,
payments
to
any
consultants,
payments
for
insurance,
taxes
of
the
Company,
consumables,
advertising,
marketing,
labor
costs,
information
and
communication
technology
costs
relating
to
the
Project
and
costs
for
technological
development
relating
to
the
Project,
payments
under

real
property
agreements,
payments
pursuant
to
agreements
for
the
management,
operation
or
maintenance
of
the
Project,
including
payments
to
Calumet
Montana
under
the
Master
Services
Agreement
(as
in
effect
on
the
date
hereof),
reasonable
legal
fees
and
expenses
of
the
Company
in
connection
with
the
management,
maintenance
or
operation
of

the
Project,
fees
in
connection
with
obtaining,
transferring,
maintaining
or
amending
any
approvals
from
any
governmental
authority,
costs
in
connection
with
the
performance
of
environmental
mitigation
work
to
be
carried
out
by
the
Company
and
reasonable
general
and
administrative
expenses,
and
(b)
all
payments
of
principal
and
interest
and
other

obligations
under
and
in
accordance
with
the
Working
Capital
Facility
Credit
Agreement,
but
exclusive
in
all
cases
of
(i)
noncash
charges,
including
depreciation
or
obsolescence
charges
or
reserves
therefor,
amortization
of
intangibles
or
other
non-
cash
bookkeeping
entries
of
a
similar
nature,
(ii)
payments
for
restoration
or
repair
of
the

Project
from
the
Insurance/Condemnation
and
Disposition
Proceeds
Account,
(iii)
Restricted
Payments
of
any
kind
to
an
Obligor
or
an
Affiliate
of
an
Obligor,
and
(iv)
any
payments
due
under
the
Stonebriar
Sale
Leaseback
Obligations.

"Operating
and
Maintenance
Withdrawal
Requisition"
means
a
requisition
by
the
Company
for
withdrawals
from

the
Operating
and
Maintenance
Account
in
substantially
the
form
attached
hereto
as
Exhibit
E.

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■

“Organizational
Documents”
means,
with
respect
to
any
Person,
as
applicable,
its
certificate
or
articles
of
incorporation
or
organization,
by
laws,
certificate
of
partnership,
partnership
agreement,
certificate
of
formation,
articles

of
organization,
limited
liability
company
agreement
and/or
operating
agreement,
and
all
shareholder
agreements,
voting
trusts
and
similar
arrangements
applicable
to
any
of
such
Person's
partnership
interests,
limited
liability
company
interests
or
authorized
shares
of
Equity
Interests,
in
each
case
as
amended.

"Lease
Agreement"
means
that
certain
Ground
Lease,
dated

on
or
about
the
date
hereof,
by
and
between
Calumet
Montana
and
the
Company,
as
evidenced
by
that
certain
Memorandum
of
Ground
Lease,
dated
on
or
about
the
date
hereof,
to
be
recorded
in
the
Official
Public
Records
of
Cascade
County,
Montana.

"Lease
Agreement
Estoppel"
means
that
certain
Ground

Lease
Estoppel
Agreement,
dated
on
or
about
the
date
hereof,
entered
into
by
Calumet
Montana
in
favor
of
the
Collateral
Trustee
with
respect
to
the
Lease
Agreement.

"Parity

Debt"
means
any
Permitted
Debt
under
the
Term
Loan
Agreement
that
is
payable
on
parity
with
the
Stonebriar
Sale
Leaseback
Obligations

and
the
Parity
Lien
Obligations,
including
the
Term
Loan
and
the
Bonds.

“Parity
Lien”
means
a
Lien
granted
by
an
Obligor
in
favor
of
the
Collateral
Trustee
pursuant
to
a
Parity
Lien
Security
Document,
at
any
time,
upon
any
property
of
any
such
Obligor
to
secure
any
Parity

Lien
Obligation.

"Parity

Lien
Debt"
means:

(a) the
Indebtedness
of
each
Obligor
under
the
Bonds
and
the
Loan
Agreement
(if
and
when
issued);
provided,
that
the
initial
stated
principal
amount
of
the
Bonds
and
the
loans
under
the
Loan
Agreement
shall
be
no
greater
than
\$250,000,000;

(b)

the
Indebtedness

of
each
Obligor
under
the
Term
Facility;
and

(c)
any
other
Indebtedness
(other
than
intercompany
Indebtedness
owing
to
the
Company
or
its
Subsidiaries
or
its
Affiliates)
of
the
Company
(including
Additional
Bonds
and
Guarantees
thereof
and
Indebtedness
under
any
term
loan,
entered
into
after
the
date
of
this
Agreement)

that
is
secured
equally
and
ratably
with
the
Parity
Lien
Obligations
by
a
Parity
Lien
that
is
permitted
to
be
incurred
and
so
secured
under
each
applicable
Parity
Lien
Document;
provided,
however,
that
in
the
case
of
any
Indebtedness
referred
to
in
this
clause (c),
that:

(i)

on
or
before

the
date
on
which
such
Indebtedness
is
incurred
by
the
Company,
such
Indebtedness
is
designated
by
the
Company,
in
an
Additional
Parity
Lien
Debt
Certificate
executed
and
delivered
in
accordance
with
Section
4.8(b),
as
“Parity
Lien
Debt”
for
the
purposes
of
the
Indenture
and
this
Agreement;

(ii)
other
than

in
the
case
of
any
Additional
Bonds
and
Guarantees
thereof
issued
under
the
Indenture,
such
Indebtedness
is
governed
by
an
indenture,

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■

credit
agreement
or
other
agreement
that
includes
an
Additional
Secured
Debt
Designation
and,
in
each
case,
the
Parity
Lien
Representative
of
such

Parity
Lien
Debt
(other
than
Additional
Bonds)
shall
have
executed
a
Collateral
Trust
Joinder;

(iii)

all
other
requirements
set
forth
in
Section
4.8
have
been
complied
with;
and

(iv)

on
or
before
the
date
on
which
such
Indebtedness
is
incurred,
Company
has
delivered
to
the
Collateral
Trustee
and
each

Parity
Lien
Representative
an
Officer's
Certificate
stating
that
such
Indebtedness
is
permitted
by
each
applicable
Parity
Lien
Document
to
be
incurred
and
secured
with
a
Parity
Lien
equally
and
ratably
with
all
other
Parity
Lien
Debt.

"Parity

Lien
Debt
Default"
means
any
Event
of
Default
(as
defined
in
the

Term
Loan
Agreement),
any
Bond
Default
or
any
similar
event
or
condition
set
forth
in
any
other
Parity
Lien
Document
that
causes,
or
permits
holders
of
the
applicable
Series of
Parity
Lien
Debt
outstanding
thereunder
(with
or
without
the
giving
of
notice
or
lapse
of
time,
or
both,
and
whether
or

not
notice
has
been
given
or
time
has
lapsed)
to
cause,
the
Parity
Lien
Debt
outstanding
thereunder
to
become
immediately
due
and
payable.

“Parity

Lien
Documents”
means,
collectively,
the
Indenture,
the
Bonds,
the
Loan
Agreement
and
other
Financing
Documents,
the
Term
Loan
Agreement
and
other
Loan
Documents,
the
Parity

Lien
Security
Documents,
and
any
additional
indenture,
supplemental
indenture,
credit
agreement
or
other
agreement
governing
each
other
Series of
Parity
Lien
Debt,
and
"Parity
Lien
Document"
means
each
of
the
foregoing.

"Parity
Lien
Obligations"
means
Parity
Lien
Debt
and
all
other
Obligations
in
respect
thereof.

"Parity
Lien
Representative"
means:

(a)

in
the
case
of
the
Bonds,
the
Bond
Trustee;

(b)

in
the
case
of
the
Term
Facility,
the
Administrative
Agent;

(c)

any
holder
of
Parity
Lien
Debt
acting
in
its
individual
capacity
so
long
as
such
Person
is,
or
has
become,
a
party
to
this
Agreement;
or

(d)
in
the
case
of
any
Series of
Parity
Lien
Debt
(other
than
as
described
in
(a)
or
(b)
above),
the
agent
or
representative
of
the
holders
of
such
Series of
Parity
Lien
Debt
that
(1) is
appointed
to
act
for
the
holders
of
such
Series of
Parity
Lien
Debt
(for
purposes
related

to
the
administration
of
the
Parity
Lien
Security
Documents)
pursuant
to
an
indenture,
credit
agreement
or
other
agreement
governing
such
Series of
Parity
Lien
Debt,
together
with
its
successors
in
such
capacity,
and
(2) has
become
a
party
to
this
Agreement
by
executing
a
Collateral
Trust
Joinder.
“Parity
Lien
Secured
Parties”

means,
collectively,
(a)
the
Administrative
Agent,
(b)
the
Term
Lenders,
(c)
the
Collateral
Trustee,
and
(d)
each
Parity
Lien
Debt
Representative
and
any

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-

other
holder
of
Parity
Lien
Debt
(including
the
holders
of
the
Bonds
if
and
when
the
Bonds
are
issued).

"Parity
Lien
Security
Documents"
means
this
Agreement,
each
Collateral
Trust
Joinder,
the
Security
Agreement,
the
Membership
Interest
Pledge
Agreement,
the
Mortgage
Instruments,
the
Wells
Fargo
Collections
DACA,
Wells
Fargo
Operating
DACA,
Wells
Fargo
Transfer
DACA,
Working
Capital
Facility
Intercreditor
Agreement,
Macquarie
Letter
Agreement,
the
Consents,
and
all
other
security
agreements,

pledge
agreements,
hypothecs,
collateral
assignments,
mortgages,
deeds
of
trust,
deeds
to
secure
debt,
collateral
agency
agreements,
debentures,
control
agreements
or
other
grants
or
transfers
for
security
executed
and
delivered
by
the
Company
or
Holdings
in
favor
of
the
Collateral
Trustee
for
the
benefit
of
the
Parity
Lien
Secured
Parties
creating

(or
purporting
to
create)
a
Parity
Lien
upon
Collateral
(including,
without
limitation,
the
financing
statements
under
the
Uniform
Commercial
Code
of
the
relevant
state),
in
each
case,
as
amended,
supplemented,
modified,
renewed,
restated
or
replaced,
in
whole
or
in
part,
from
time
to
time,
in
accordance
with
its
terms
and

Section
8.1
of
this
Agreement.

“Payment
Date”
means
(i)
with
respect
to
the
Bonds,
each
April
1,
and
October
1,
commencing
on
October
1,
2023
or
such
other
semi-
annual
dates
as
specified
by
Company
to
the
Collateral
Trustee
in
accordance
with
the
Indenture,
and
for
any
Additional
Bonds,

the
dates
set
forth
in
the
Supplemental
Indenture
authorizing
such
Additional
Bonds,
(ii)
with
respect
to
the
Term
Loan,
such
dates
as
provided
in
the
Term
Loan
Agreement
for
the
scheduled
payment
of
principal
or
interest,
as
the
case
may
be,
(iii)
with
respect
to
the
Stonebriar
Sale
Leaseback
Obligations,

such
dates
as
provided
in
the
Stonebriar
Sale
Leaseback
Documents,
and
(iv)
with
respect
to
any
Additional
Parity
Lien
Debt,
the
payment
date
specified
in
the
documents
evidencing
such
Additional
Parity
Lien
Debt.

"Permitted

Tax
Payments"
means
customary
tax
distributions
to
the
members
of
the
Company
and
the
members

of
Holdings
intended
to
be
sufficient
to
enable
them
to
pay,
on
a
quarterly
basis,
federal,
state
and
local
taxes
arising
from
the
allocations
made
to
such
members,
computed
in
the
following
manner:
for
any
taxable
period
(or
portion
thereof)
following
the
date
hereof,
the
product
of
(1)
the
taxable

income
generated
by
Company
for
such
period
(calculated
taking
into
account
deductibility
of
state
and
local
taxes
to
the
extent
applicable)
reduced,
but
not
below
zero,
by
any
tax
deduction,
loss
or
credit
previously
or
currently
allocated
and
not
previously
taken
into
account
for
purposes
of
the
calculation
of
the

amount
of
any
tax
distribution;
provided,
that
any
adjustments
by
reason
of
Sections
734
or
743
of
the
Code
shall
not
be
taken
into
account
in
calculating
the
amount
of
any
tax
distribution,
and
(2)
the
maximum
combined
marginal
U.S.
federal,
state
and/or
local
income
tax
rate
applicable
to
an

individual
resident
in
New
York,
New
York
or
a
corporation
resident
in
Delaware
(in
each
case,
taking
into
account
the
net
investment
income
tax),
whichever
is
greater,
in
respect
of
income
recognized
during
the
relevant
tax
period.

“Person”

means
an
individual,
a
corporation,
a
partnership
(limited
or
general),
a

limited
liability
company,
an
association,
a
trust
or
any
other
entity,
including
a
government
or
political
subdivision
or
an
agency
or
instrumentality
thereof.

“Phase

2
Planned
Turnaround”
means
the
turnaround
planned
as
part
of
sustainable
aviation
fuel
expansion
contemplated
with
respect
to
the
Project.

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■

“Plan
of
Reorganization”
means
any
plan
of
reorganization,
plan
of
liquidation,
agreement
for
composition,
or
other
dispositive
type
of
plan
of
arrangement
proposed
in
or
in
connection
with
any
Insolvency
or
Liquidation
Proceeding.

“Product
Sales
Agreements”
means
agreements
of
the
Company
with
respect
to
the
true
sale
by

the
Company
of
inventory
in
the
ordinary
course
of
business.

“Project”
means
the
Company’s
renewable
diesel
facility
located
in
Great
Falls,
Montana
consisting
of
pretreatment
facilities,
a
renewable
diesel
unit,
a
renewable
hydrogen
unit,
tank
farms,
rail
systems,
wastewater
facilities,
real
property,
a
sustainable
aviation
fuel
expansion,
and
other

related
equipment
and
supporting
infrastructure
necessary
to
produce
renewable
diesel
and
jet
fuels
from
renewable
feedstock.

“Project
Costs”
means
costs
incurred
or
to
be
incurred
in
relation
to
the
Project,
including
but
not
limited
to
reimbursement
of
costs
incurred
prior
to
the
date
hereof
as
well
as
transaction
costs.

"Project Documents"
has
the
meaning
set
forth
in
the
Security
Agreement.

"Project Revenues"
means
all
amounts
received
or
receivable
for
the
account
of
the
Company
from
operation
of
the
Project
including
revenues
arising
under
the
Product
Sales
Agreements.

"Property"
means
any
interest
in
any
kind
of
property
or

asset,
whether
real,
personal
or
mixed,
or
tangible
or
intangible.

“Quarterly
Funding
Date”
means
the
last
Business
Day
of
each
fiscal
quarter.

“Reaffirmation
Agreement”
means
an
agreement
reaffirming
the
security
interests
granted
to
the
Collateral
Trustee
in
substantially
the
form
attached
as
Exhibit
1
to
Exhibit A
of
this
Agreement.

“Real
Properties”
means,
at
any
time
of
determination,
any
fee
or
leasehold
interest,
easement,
consent,
permit
or
license,
then
owned
or
held
by
the
Company
in
any
real
property.

“Rebate
Fund”
means
the
fund
established
under
the
Indenture.

“Rebate
Transfer
Account”
has
the
meaning
assigned
to
such
term
in

Section

3.4(a).

"Required

Parity

Lien

Debtholders"

means,

as

of

any

date

of

determination,

the

holders

of

Parity

Lien

Debt

owed

or

holding

more

than

50%

of

the

sum

of

aggregate

principal

amount

and

related

accrued

interest

of

all

Parity

Lien

Debt

then

outstanding

as

of

such

date,

as

calculated

in
accordance
with
the
provisions
of
Section
8.2,
but
expressly
excluding
any
such
Parity
Lien
Debt
registered
in
the
name
of,
or
beneficially
owned
by,
the
Company,
any
Obligor,
or
any
Affiliate
of
the
Company
or
any
Obligor.

"Restricted
Payment"
means
(a) any
dividend
or
other
distribution,
direct
or
indirect,

on
account
of
any
Capital
Stock
of
Company
now
or
hereafter
outstanding;
(b) any
redemption,
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■

retirement,
sinking
fund
or
similar
payment,
purchase
or
other
acquisition
for
value,
direct
or
indirect,
of
any
Capital
Stock
of
Company
now
or
hereafter
outstanding;
(c) any
payment
made
to

retire,
or
to
obtain
the
surrender
of,
any
outstanding
warrants,
options
or
other
rights
to
acquire
shares
of
any
Capital
Stock
of
Company
now
or
hereafter
outstanding;
(d) management
or
similar
fees
payable
to
Company's
Affiliates
(other
than
payments
to
Calumet
Montana
pursuant
to
the
Master
Services
Agreement);
and
(e) any
payment

or
prepayment
of
principal
of,
premium,
if
any,
or
interest
on,
or
redemption,
purchase,
retirement,
defeasance
(including
in
substance
or
legal
defeasance),
sinking
fund
or
similar
payment
with
respect
to,
any
Indebtedness
owed
by
Company
to
any
of
its
Affiliates.

"Revenue
Account"
has
the
meaning
assigned
to
such
term

in
Section
3.2(a).

“Revenue
Account
Withdrawal
Requisition”
means
a
requisition
by
the
Company
for
withdrawals
from
the
Revenue
Account
in
substantially
the
form
attached
hereto
as
Exhibit
D.

“Revenues”
means
(a) all
Project
Revenues;
(b) all
interest,
profits
or
other
income
derived
from
the
investment
of
amounts
in
any
Trust

Account
established
pursuant
to
this
Agreement;
(c) liquidated
damages
payable
by
or
for
the
account
of
construction
contractors,
including
for
delays
in
completing
the
Project
or
for
interference
with
Project
operations;
(d)
all
proceeds
of
ordinary
course
swap
settlement
payments
payable
under
permitted
hedge
agreements,
and
(e)
any
equity
contributions
made

to
the
Obligors
(other
than
Holdings).

“RINs”

means
each
number
assigned
to
each
physical
gallon
of
renewable
fuel
produced
or
imported
by
a
registered
producer,
which
numbers
constitute
credits
used
for
compliance
with,
and
are
the
currency
of,
the
“Renewable
Fuel
Standards
Program”
administered
by
the
EPA.

“S&P”

means

Standard
&
Poor's
Ratings
Services,
a
division
of
The
McGraw-
Hill
Companies,
Inc.

“Sale
Leaseback”
means
any
transaction
or
series
of
related
transactions
pursuant
to
which
a
Person
(a)
sells,
transfers
or
otherwise
disposes
of
any
property,
real
or
personal,
whether
now
owned
or
hereafter
acquired,
and
(b)
as

part
of
such
transaction,
thereafter
rents
or
leases
such
property
or
other
property
that
it
intends
to
use
for
substantially
the
same
purpose
or
purposes
as
the
property
being
sold,
transferred
or
disposed
of.

"Security
Agreement"
means
that
certain
Security
Agreement,
dated
of
even
date
herewith,
by
and

between
the
Company
and
the
Collateral
Trustee,
as
the
same
may
be
amended,
restated,
supplemented
or
otherwise
modified
from
time
to
time.

“Series of
Parity
Lien
Debt”
means,
severally,
(a)
the
Obligations
under
the
Indenture,
(b)
the
Obligations
under
the
Term
Loan,
and
(c)
each
separate
issue
of
Indebtedness

which
constitutes
Parity
Lien
Debt
(with
agreements
between
one
or
more
of
the
same
Obligors,
on
the
one
hand,
and
one
or
more
of
the
same
counterparties,
on
the
other
hand,
constituting
a
single
issue
and
a
single
Series
of
Parity
Lien
Debt,
so
long
as
such
agreements
represent
confirmations

or
transactions
under
a
single
common
agreement
among
such
parties).

“Stonebriar”

has
the
meaning
set
forth
in
the
recitals.

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-

“Stonebriar

Consent”
shall
mean
that
certain
Lessor
Consent
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
between
Stonebriar,
Company
and

the
Collateral
Trustee.

“Stonebriar
Financed
Equipment”
has
the
meaning
set
forth
in
the
recitals.

“Stonebriar
Sale
Leaseback
Documents”
has
the
meaning
set
forth
in
the
recitals

“Stonebriar
Sale
Leaseback
Obligations”
has
the
meaning
set
forth
in
the
recitals.

“Subsidiary.”
means,
with
respect
to
any
specified
Person:

(a)
any
corporation,
association
or
other
business
entity
(other
than
a
partnership
or
limited
liability
company)
of
which
more
than
50%
of
the
total
voting
power
of
Voting
Stock
is
at
the
time
owned
or
controlled,
directly
or
indirectly,
by
that
Person
or
one
or
more
of
the
other
Subsidiaries

of
that
Person
(or
a
combination
thereof);
and

(b)
any
partnership
(whether
general
or
limited)
or
limited
liability
company

(i)
the
sole
general
partner
or
member

of
which
is
such
Person
or
a
Subsidiary
of
such
Person,

or
(ii)
if
there
is
more
than
a
single
general
partner
or

member,
either
(x)
the
only
managing
general
partners
or
managing
members
of
which
are
such
Person
or
one
or
more
Subsidiaries
of
such
Person
(or
any
combination
thereof)
or
(y)
such
Person
owns
or
controls,
directly
or
indirectly,
a
majority
of
the
outstanding
general
partner
interests,
member
interests
or
other

Voting
Stock
of
such
partnership
or
limited
liability
company,
respectively.

“Surplus
Account”
has
the
meaning
set
forth
in
Section
3.11(a).

“Surplus
Withdrawal
Requisition”
means
a
requisition
by
the
Company
for
withdrawals
from
the
Surplus
Account
in
substantially
the
form
attached
hereto
as
Exhibit
I.

“
Swap
Contract
”

means
(a) any
and
all
rate
swap
transactions,
basis
swaps,
credit
derivative
transactions,
forward
rate
transactions,
commodity
swaps,
commodity
options,
forward
commodity
contracts,
commodity
futures
contracts,
equity
or
equity
index
swaps
or
options,
bond
or
bond
price
or
bond
index
swaps
or
options
or
forward
bond
or
forward
bond
price
or

forward
bond
index
transactions,
interest
rate
options,
forward
foreign
exchange
transactions,
cap
transactions,
floor
transactions,
collar
transactions,
currency
swap
transactions,
cross-
currency
rate
swap
transactions,
currency
options,
spot
contracts,
or
any
other
similar
transactions
or
any
combination
of
any
of
the
foregoing
(
including
any
options
to
enter
into
any

of
the
foregoing),
whether
or
not
any
such
amendments,
as
more
particularly
described
herein, transaction
is
governed
by
or
subject
to
any
master
agreement,
and
(b) any
and
all
transactions
of
any
kind,
and
the
related
confirmations,
which
are
subject
to
the
terms
and
conditions
of,
or
governed
by,
any
form
of

ISDA
Master
Agreement,
including
any
such
obligations
or
liabilities
under
any
ISDA
Master
Agreement.

“Term
Facility.”
has
the
meaning
set
forth
in
the
Recitals.

“Term
Lenders”
has
the
meaning
set
forth
in
the
Recitals.

“Term
Loan”
has
the
meaning
set
forth
in
the
Recitals.

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■
“Term
Loan
Agreement”
has
the
meaning
set
forth
in
the
Recitals.

“Term
Loan
Debt
Service
Reserve
Deficiency
Account”
has
the
meaning
set
forth
in
Section
3.7.

“Term
Loan
Debt
Service
Reserve
Fund
Requirement”
has
the
meaning
given
to
the
term
“Debt
Service
Reserve
Requirement”
in

the
documents
evidencing
the
Term
Loan.

“Term
Loan
Debt
Service
Transfer
Account”
has
the
meaning
set
forth
in
Section
3.4(a).
(ii).

“Term
Loan
IDC
Reserve
Account”
has
the
meaning
set
forth
in
Section
3.8.

“Term
Loan
Interest
Sub-
Account”
has
the
meaning
set
forth
in
Section

3.4(a).

(ii).

“Term

Loan

Principal

Sub-

Account”

has

the

meaning

set

forth

in

Section

3.4(a).

(ii).

“Trigger

Event”

means

any

Parity

Lien

Debt

Default

has

occurred

and

is

continuing

under,

and

has

been

declared

by

the

applicable

Parity

Lien

Representative

in

accordance

with,

the

applicable

Parity

Lien

Document.

|

"Trust
Accounts"
has
the
meaning
set
forth
in
Section
3.1(a).

"Trust
Estate"
has
the
meaning
set
forth
in
Section
2.1.

"UCC"
means
the
Uniform
Commercial
Code
as
from
time
to
time
in
effect
in
the
State
of
New
York;
provided,
however,
that
if
by
reason
of
mandatory
provisions
of

law,
the
perfection
or
the
effect
of
perfection
or
non-
perfection
of
the
security
interest
in
any
Collateral
or
the
availability
of
any
remedy
hereunder
is
governed
by
the
Uniform
Commercial
Code
as
in
effect
on
or
after
the
date
hereof
in
any
other
jurisdiction,
then
the
term
"UCC"
shall

mean
the
Uniform
Commercial
Code
as
in
effect
in
such
other
jurisdiction
for
purposes
of
the
provisions
hereof
relating
to
such
perfection
or
effect
of
perfection
or
non-
perfection
or
availability
of
such
remedy.

"Voting

Stock"

of
any
Person
as
of
any
date
means
the
Capital
Stock
of
such

Person
that
is
at
the
time
entitled
(without
regard
to
the
occurrence
of
any
contingency)
to
vote
in
the
election
of
the
board
of
directors,
managers
or
trustees
of
such
Person.

“Wells
Fargo
Collections
DACA”
means
that
certain
Amended
and
Restated
Deposit
Account
Control
Agreement,
dated
on
the
date

hereof,
and
entered
into
between
Company,
the
Working
Capital
Facility
Agent,
the
Collateral
Trustee
and
Wells
Fargo
Bank,
National
Association,
as
Bank,
with
respect
to
bank
account
number
(last
four
digits
only)
6943
[Collections
Account].

"Wells
Fargo
Operating
DACA"
means
that
certain
Deposit
Account
and
Sweep
Investment
Control
Agreement,

dated
on
the
date
hereof,
and
entered
into
between
the
Company,
the
Collateral
Trustee
and
Wells
Fargo
Bank,
National
Association,
as
Bank,
with
respect
to
bank
account
number
(last
four
digits
only)
6935
[Operating
Account].

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“Wells
Fargo
Transfer
DACA”
means
that
certain
Deposit

Account
Control
Agreement,
dated
on
the
date
hereof,
and
entered
into
between
Company,
the
Collateral
Trustee
and
Wells
Fargo
Bank,
National
Association,
as
Bank,
with
respect
to
bank
account
number
(last
four
digits
only)
7111
[Transfer
Account].

“Working

Capital
Facility
Agent”
means
Wells
Fargo
Bank,
National
Association,
in
its

capacity
as
agent
for
the
lenders
under
the
Working
Capital
Facility
Credit
Agreement,
and
any
successor
thereto
or
replacement
thereof
(whether
one
or
more,
in
the
event
that
there
are
multiple
Working
Capital
Facility
Credit
Agreements).

“Working

Capital
Facility
Credit
Agreement”
means

(i)
as
of
the
date
hereof,
the

Credit
Agreement
dated
as
of
November
2,
2022,
as
amended,
restated,
supplemented
or
otherwise
modified,
refinanced
or
replaced
from
time
to
time,
among
the
Company,
Holdings,
Wells
Fargo,
N.A.,
the
lenders
identified
therein
and
the
Working
Capital
Facility
Agent,
and
(ii)
also
includes,
whether
one
or
more,
any
replacement
for,

addition
to,
amendment
or
modification
of,
or
supplement
to
such
Credit
Agreement,
including
another
additional
credit
agreement
(and
related
loan
documents)
in
substitution
or
replacement
for
an
Inventory
Agreement,
which
provides
for
working
capital
financing
for
the
Company's
inventory,
or
inventory
and
accounts
(and
related
assets)
together,
and
which
may

(but
need
not)
be
in
the
form
of
a
secured
revolving
credit
facility
determined
by
a
borrowing
base
whose
components
include
inventory
and
accounts.

“Working

Capital
Facility
Debt”
means
the
Indebtedness
of
the
Company
and
the
other
Obligors
under
the
Working
Capital
Facility
Credit
Agreement
and
all
of
the

other
Loan
Documents
(as
defined
in
the
Working
Capital
Facility
Credit
Agreement).

“Working
Capital
Facility
Intercreditor
Agreement”
means
that
certain
Intercreditor
Agreement,
dated
on
or
about
the
date
hereof,
and
entered
into
by
and
among
Working
Capital
Facility
Agent
and
Collateral
Trustee.

Section 1.2

Rules
of
Interpretation.

—

(a)
Unless
otherwise
indicated,
any
reference
to
any
agreement
or
instrument
will
be
deemed
to
include
a
reference
to
that
agreement
or
instrument
as
assigned,
amended,
supplemented,
amended
and
restated,
or
otherwise
modified
and
in
effect
from
time
to
time
or
replaced
in
accordance
with
the
terms
of
such
agreement

or
instrument
and
this
Second
Amendment. Agreement.

C. Capitalized

(b)
The
use
in
this
Agreement
or
any
of
the
other
Parity
Lien
Security
Documents
of
the
word
"include"
or
"including,"
when
following
any
general
statement,
term
or
matter,
will
not
be
construed
to
limit
such
statement,
term
or
matter
to
the

specific
items
or
matters
set
forth
immediately
following
such
word
or
to
similar
items
or
matters,
whether
or
not
non-
limiting
language
(such
as
“without
limitation”
or
“but
not
limited
to”
or
words
of
similar
import)
is
used
with
reference
thereto,
but
will
be
deemed
to
refer
to
all
other

items
or
matters
that
fall
within
the
broadest
possible
scope
of
such
general
statement,
term
or
matter.
The
word
“will”
shall
be
construed
to
have
the
same
meaning
and
effect
as
the
word
“shall.”

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■

(c)
References
to
“Sections,”
“clauses,”
“recitals”
and
the
“preamble”

will
be
to
Sections,
clauses,
recitals
and
the
preamble,
respectively,
of
this
Agreement
unless
otherwise
specifically
provided.
References
to
“Articles”
will
be
to
Articles
of
this
Agreement
unless
otherwise
specifically
provided.
References
to
“Exhibits”
and
“Schedules”
will
be
to
Exhibits
and
Schedules,
respectively,
to
this
Agreement
unless
otherwise
specifically
provided.

(d)
Notwithstanding
anything
to
the
contrary
in
this
Agreement,
any
references
contained
herein
to
any
section,
clause,
paragraph,
definition
or
other
provision
of
any
Parity
Lien
Document
(including
any
definition
contained
therein)
shall
be
deemed
to
be
a
reference
to
such
section,
clause,
paragraph,
definition
or
other
provision
as
in

effect
on
the
date
of
this
Agreement;
provided
that,
unless
otherwise
set
forth
herein,
any
reference
to
any
such
section,
clause,
paragraph
or
other
provision
shall
refer
to
such
section,
clause,
paragraph
or
other
provision
of
such
Parity
Lien
Document
(including
any
definition
contained
therein)
as
amended
or
modified
from

time
to
time
if
such
amendment
or
modification
has
been
made
in
accordance
with
such
Parity
Lien
Document
and
this
Agreement.

(e)

This
Agreement
and
the
other
Parity
Lien
Security
Documents
will
be
construed
without
regard
to
the
identity
of
the
party
who
drafted
it
and
as
though
the

parties
participated
equally
in
drafting
it.
Consequently,
each
of
the
parties
acknowledges
and
agrees
that
any
rule
of
construction
that
a
document
is
to
be
construed
against
the
drafting
party
will
not
be
applicable
either
to
this
Agreement
or
the
other
Parity
Lien
Security
Documents.

(f)
References
herein
to

“accounts”,
“inventory”,
“payment
intangibles”,
and
other
terms
used
but
not herein
and
defined
in
this
Second
Amendment Article
9
of
the
UCC
shall
have
the
meanings
set
forth
therefor
in
the
Supply UCC
except
to
the
extent
otherwise
expressly
set
forth
herein.

ARTICLE 2

THE TRUST ESTATE

Section 2.1

Declaration of Trust.

—

(a)

To
secure
the
payment
of
the
Parity
Lien
Obligations
and
Offtake
Agreement. in
consideration
of
the
premises
and
the
mutual
agreements
set
forth
herein,
each
of
the
Obligors
hereby
confirms
the
grant
of
Liens
in
favor
of
the
Collateral
Trustee,
and
the
Collateral
Trustee
hereby
accepts
and
agrees
to
hold,

in
trust
under
this
Agreement
for
the
benefit
of
all
current
and
future
Parity
Lien
Secured
Parties,
on
all
of
such
Obligor's
right,
title
and
interest
in,
to
and
under
all
Collateral
and
on
all
Liens
now
or
hereafter
granted
to
the
Collateral
Trustee
by
each
Obligor
under
any
Parity

Lien
Security
Document
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
together
with
all
of
the
Collateral
Trustee's
right,
title
and
interest
in,
to
and
under
the
Parity
Lien
Security
Documents,
and
all
interests,
rights,
powers
and
remedies
of
the
Collateral
Trustee
thereunder
or
in
respect
thereof
and
all

cash
and
non-
cash
proceeds
thereof
(collectively,
the
"Trust
Estate").

AGREEMENTS

AND

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AMENDMENTS

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■

NOW

THEREFORE,

(b)

The
Collateral
Trustee
and
its
successors
and
permitted
assigns
under
this
Agreement
will
hold
the
Trust
Estate
in
trust
for
good the
benefit
solely
and
valuable
consideration, exclusively
of
all
current
and

future
Parity
Lien
Secured
Parties
as
security
for
the
receipt payment
of
all
present
and
sufficiency
of
which
are
acknowledged,
the
undersigned
parties
hereby
agree
as
follows: future
Parity
Lien
Obligations.

I. (c)

Notwithstanding
the
foregoing,
if
at
any
time:

(i)

all
Liens
securing
the
Parity
Lien
Obligations
have
been
released
as

provided
in
Section
5.1:

(ii)

the
Collateral
Trustee
holds
no
other
property
in
trust
as
part
of
the
Trust
Estate;

(iii)

no
monetary
obligation
(other
than
indemnification
and
other
contingent
obligations
not
then
due
and
payable
and
letters
of
credit
that
have
been
cash
collateralized
at
the
lower
of

(A)
105%
of
the
aggregate
undrawn
amount
thereof
and
(B)
the
percentage
of
the
aggregate
undrawn
amount
required
for
release
of
Liens
under
the
terms
of
the
applicable
Parity
Lien
Documents)
is
outstanding
and
payable
under
this
Agreement
to
the
Collateral
Trustee
or
any
of
its
co-
trustees
or
agents

(whether
in
an
individual
or
representative
capacity);
and

(iv)
the
Company
delivers
to
the
Collateral
Trustee
an
Officers'
Certificate
stating
that
the
Obligors
are
not
required
by
any
Parity
Lien
Document
to
grant
any
Parity
Lien
upon
any
property,

then
the
Trust
Estate
arising
hereunder
will
terminate,
except
that

all
provisions
set
forth
in
Section
8.9
and
Section
8.10
that
are
enforceable
by
the
Collateral
Trustee
or
any
of
its
co-
trustees
or
agents
(whether
in
an
individual
or
representative
capacity)
will
remain
enforceable
in
accordance
with
their
terms.

(d)

The
parties
to
this
Agreement
further
declare
and

covenant
that
the
Trust
Estate
will
be
held
and
distributed
by
the
Collateral
Trustee
subject
to
the
further
agreements
herein.

Section 2.2

Collateral
Shared
Equally.
and
Ratably.
The
parties
to
this
Agreement
agree
that
the
payment
and
satisfaction
of
all
of
the
Parity
Lien
Obligations
(including
in
connection
with
an

Insolvency
or
Liquidation
Proceeding)
will
be
secured
equally,
ratably
and
on
a
pari
passu
basis
by
the
Parity
Liens
established
in
favor
of
the
Collateral
Trustee
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
notwithstanding
the
time
of
incurrence
of
any
Parity
Lien
Obligations
or
time
or
method
of

creation
or
perfection
of
any
Parity
Liens
securing
such
Parity
Lien
Obligations.

Section 2.3

Identical
Liens.
The
parties
to
this
Agreement
agree
that
it
is
their
intention
that
the
Parity
Liens
be
identical.

Section 2.4

Amounts
Not
Subject
to
Sharing.
Notwithstanding
any
other
provision
of
this
Agreement
or
any
other
Parity

Lien
Document
to
the
contrary,
no
Parity
Lien
Secured
Party
shall
have
any
obligation
to
share:

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-

(a)

any
payment
made
by
any
Person
to
such
Parity
Lien
Secured
Party
pursuant
to
a
contract
of
participation
or
assignment
or
any
other
arrangement
by
which

a
direct
or
indirect
interest
of
such
Parity
Lien
Secured
Party
under
the
Parity
Lien
Document
is
transferred
(other
than
any
such
contract
or
other
arrangement
entered
into
with
the
Company
or
any
Affiliate
thereof);

(b)
any
payment
made
pursuant
to
and
in
accordance
with
the
express
terms

of
this
Agreement;
or

(c)
any
payment
received
from
amounts
on
deposit
or
credited
to
the
Debt
Service
Reserve
Deficiency
Accounts.

ARTICLE 3

FUNDS AND ACCOUNTS

Section 3.1

Creation
of
Accounts.

|

(a)
The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
the
following
trust
accounts
(inclusive

of
any
sub-
account
thereof
unless
otherwise
specified
herein,
and
together
with
any
additional
accounts
pursuant
to
Supply this
Section
3.1(a),
the
"Trust
Accounts")
created
in
the
name
of
the
Collateral
Trustee
and
Offtake held
in
trust
by
the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the

Parity
Lien
Secured
Parties,
which
trust
accounts
shall
be
maintained
at
all
times
after
the
establishment
thereof
until
termination
of
this
Agreement
and
shall
be
used
for
the
purposes
set
forth
herein:

(i)
Revenue
Account;

(ii)
Operating
and
Maintenance
Account;

(iii)
Rebate
Transfer
Account;

(iv)
Bond
Debt

Service
Transfer
Account;

(A)

Bond
Interest
Sub-
Account

(B)

Bond
Principal
Sub-
Account

(V)

Term
Loan
Debt
Service
Transfer
Account;

(A)

Term
Loan
Interest
Sub-
Account

(B)

Term
Loan
Principal
Sub-
Account

(vi)

General
Debt
Service
Transfer
Account;

(A)

General
Debt
Interest
Sub-
Account

(B)

General
Debt
Principal
Sub-
Account

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■

(vii)

Bond
Debt
Service
Reserve
Deficiency
Account;

(viii)

Term
Loan
Debt
Service
Reserve
Deficiency
Account;

(ix)

Term
Loan
IDC
Reserve
Account;

(x)

Insurance/Condemnation
and
Disposition
Proceeds
Account;

(xi)

Debt
Proceeds
Account;
and

(xii)

Surplus
Account.

(b)

Subject
to
Section
8.1,
the
Collateral
Trustee
may
create
such
sub-
accounts
within
any
established
Trust
Account
as
the
Collateral
Trustee
deems
necessary
for
the
orderly
maintenance
of
funds,
so
long
as
the
Company
certifies
to
the
Collateral
Trustee
and
the
Parity
Lien
Debt
Representatives

that
the
intended
purpose
and
use
of
any
such
sub-
account
shall
not
be
inconsistent
with
the
terms
of
any
Parity
Lien
Documents.

(c)

No
Obligor
shall
have
any
rights
to
withdraw
or
transfer
funds
from
the
Trust
Accounts,
as
third
party
beneficiary
or
otherwise,
except
as
permitted
by

this
Agreement
and
to
direct
the
investment
of
payments,
Investment
Securities
and
other
amounts
held
in
or
credited
to
the
Trust
Accounts
as
permitted
by
Section
3.14.

Section 3.2

Revenue
Account

(a)

Article
1.1,
Definitions,
Establishment.

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account,

in
the
name
of
the
Supply
and
Offtake
Agreement
is
hereby
amended
by
adding
the
following
new
definitions
in
their
proper
alphabetical
order:

“Second
Amendment”
means
the
Second
Amendment
to
Supply
and
Offtake
Agreement,
dated
as Collateral
Trustee
on
behalf
of
the
Second
Amendment
Closing
Date,
by Company
and
between
Macquarie for

the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Project
Revenue
Account"
and
the
Company.

numbered
162217-
000
(the
"Second
Amendment
Closing
Date Revenue
Account"
means
March
10,
2023).

(b)

Section
3.1.
Term, Deposits
to
the
Revenue
Account.
The
Collateral
Trustee
shall
deposit
to
the
Revenue
Account
all

(i)
Revenues,
(ii) all
net
earnings
and
proceeds
of
the
Supply
and
Offtake
Agreement
is
hereby
amended
by
replacing
the
reference
to
"November
2,
2025" investments
of
money
in
the
second
sentence
of
such
section Revenue
Account,
(iii) all
moneys
received
by
the
Collateral
Trustee
with
a
reference
to
"September
30,
2023".

II. Representations.

Warranties
and
Covenants.

Each
of
Macquarie
and written
direction
from

the
Company
represents
and
warrants for
deposit

to
each the
Revenue
Account,
(iv)
all
amounts
required

to
be
transferred
to
the
Revenue
Account
from

any
other
that
(a)
it
possesses

all
requisite
power
and
authority
to
execute,
deliver
and
comply Trust
Account
in

accordance
with
the
terms
of
this
Second
Amendment,
(b)
no Agreement,
and
(v)
all
amounts
received
by
the
Company
or
any
other
consent
of
any
Person
is Obligor
and
not
required
for
this
Second
Amendment or
permitted
to
be
effective, deposited
into
another
Trust
Account
pursuant
to
this
Agreement.

(c)
Disbursements
from
the

Revenue
Account.
The
Collateral
Trustee
shall,
pursuant
to
a
Revenue
Account
Withdrawal
Requisition
signed
by
an
Authorized
Company
Representative
and
(c) delivered
to
the
execution Collateral
Trustee,
withdraw
funds
from
the
Revenue
Account
in
the
amounts
set
forth
in
such
Revenue
Account
Withdrawal
Requisition
and
delivery apply
such
funds
in
the
following
order

of
this
Second
Amendment, priority
(and
in
the
event
there
is
not
then
on
deposit
in
the
Revenue
Account
sufficient
moneys
to
make
all
of
such
deposits
and
as
applicable, payments,
the
other
agreements
referenced
herein
to
which
any
such
Person
is
a
party,
does
not
violate
its
respective
organizational
documents. deposits
and

payments
shall
be
made
from
the
Revenue
Account
in
the

III. Scope
of
Amendment;
Reaffirmation.

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▪

(a) All
references
hereafter

priority
set
forth
below),
together
with
the
amount
of
any
deficiencies
remaining
payable
for
prior
months:

(i)
First,
on
each
Monthly
Funding
Date,
to

the
Supply Operating
and
Offtake
Agreement
shall
refer Maintenance
Account
an
amount
equal
to
the
Supply Operating
and
Offtake
Agreement
as
amended
by
this
Maintenance
Expenses;

(ii)

**Second
Amendment.**
Except
as
modified
by
this
Second
Amendment
and
by
other
amendments,
on
each
Payment
Date
of
the
Bonds,
to
the
Transaction Rebate
Transfer
Account,

an
amount
equal
to
the
difference
of
(A)
the
minimum
amount
of
payments
of
tax
rebate
(pursuant
to
Internal
Revenue
Code
Section
148(f))
then
due
and
payable
by
the
Company
to
ensure
that
the
Bonds
are
not
and
do
not
become
taxable
bonds
for
purposes
of
Internal
Revenue
Code
Sections

103(a)
and
148(a)
(such
amount
set
forth
in
(A),
the
"Tax
Rebate
Amount"),
minus
(B)
interest,
profits
and
other
income
received
and/or
expected
to
be
received
from
the
investment
of
moneys
deposited
in
the
Bond
Debt
Service
Reserve
Account
in
Investment
Securities
and
available
to
make
payments
of
tax
rebate.

The amount required to be transferred pursuant to this Section 3.2(c). (ii) to the Rebate Transfer Account shall be certified in an Officers' Certificate delivered to the Collateral Trustee (which Officers' Certificate shall include the calculations of such tax rebate amount prepared by a nationally recognized consultant competent and experienced

in
preparing
such
tax
rebate
calculations
in
accordance
with
the
requirements
set
forth
under
Internal
Revenue
Code
Section
148
and
the
Treasury
Regulations
promulgated
thereunder);

(iii)

Third,
on
each
Monthly
Funding
Date,
on
a
pro
rata
basis
to
each
of
the
Trust
Accounts
specified
in
(A)
to
(C)
of

this
Section
3.2(c).
(ii);

(A)

to
the
Bond
Interest
Sub-
Account,
an
amount
equal
to
the
quotient
of
(x)
the
sum
of
(I)
the
interest
due
and
payable
with
respect
to
the
Bonds
on
the
next
succeeding
Payment
Date,
plus
(II)
the
cumulative
amount
of
any
deficiencies
of
such

transfers
occurring
since
the
preceding
Payment
Date,
minus
(III)
the
amount
of
interest,
profits
and
other
income
on
amounts
received
and/or
expected
to
be
received
from
the
investment
of
moneys
deposited
in
the
Bond
Debt
Service
Reserve
Account
that
is
in
excess
of
the
Tax
Rebate
Amount
expected
to
be

due
and
payable
on
the
succeeding
Payment
Date
and
expected
to
be
available
to
be
applied
to
interest
on
the
succeeding
Payment
Date,
and
(y)
divided
by
6;

(B)

to
the
Term
Loan
Interest
Sub-
Account,
the
amount
equal
to
the
interest
due
and
payable
under
the
Term
Loan

(when
and
if
made)
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
the
Term
Loan;

(C)
to
the

General
Debt
Interest
Sub-
Account,
an
amount
equal
to
the
interest
and
ordinary
course
swap
settlement
payments,
in
each
case,

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▪

due
and
payable
under
the
Stonebriar
Sale
Leaseback
Obligations
and
any
other
Parity
Debt
on
the
next
succeeding
Payment
Date,
plus
the
cumulative

amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
each.

(iv)

Fourth,
on
each
Monthly
Funding
Date,
on
a
pro
rata
basis
to
each
of
the
Trust
Accounts

specified
in
(A)
to
(C)
of
this
Section
3.2(c).
(iv):

(A)

to
the
Bond
Principal
Sub-
Account,
the
amount
equal
to
the
quotient
of
(x)
the
sum
of
(I)
principal
due
and
payable
with
respect
to
the
Bonds
on
the
next
succeeding
Payment
Date,
plus
(II)
the
cumulative
amount

of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
minus
(III)
the
amount
of
interest,
profits
and
other
income
on
amounts
received
and/or
expected
to
be
received
from
the
investment
of
moneys
deposited
in
the
Bond
Debt
Service
Reserve
Account
that
is
in
excess
of
the
Tax

Rebate
Amount
expected
to
be
due
and
payable
on
the
succeeding
Payment
Date
and
expected
to
be
available
to
be
applied
to
principal
on
the
succeeding
Payment
Date,
and
(y)
divided
by
6;

(B)

to
the
Term
Loan
Principal
Sub-
Account,
the
amount
equal
to
the
principal
due
and

payable
under
the
Term
Loan
(when
and
if
made)
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
the
Term

Loan;
and

(C)to
the
General
Debt
Principal
Sub-
Account,
an
amount
equal
to
the
principal,
letters
of
credit
reimbursement
obligations,
and
swap
termination
payments
and
lease
payments,
in
each
case,
due
and
payable
under
the
Stonebriar
Sale
Leaseback
Obligations
and
any
other
Parity
Debt
on
the
next
succeeding
Payment

Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
each.

(v)

Fifth,
on
each
Monthly
Date,
on
a
pro
rata
basis:
(A)
to
the

Bond
Debt
Service
Reserve
Deficiency
Account,
the
amount,
if
any,
required
to
make
the
amount
on
deposit
(taking
into
account
the
undrawn
amount
of
any
letters
of
credit
posted
therein)
in
the
Bond
Debt
Service
Reserve
Deficiency
Account
to
be
equal
to
the
difference
between
(x)
amount
of
the
Bond

Debt
Service
Reserve
Fund
Requirement
minus
(y)
the
amount
on
deposit
in
the
Bond
Debt
Service
Reserve
Account,
and
(B)
to
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account,
the
amount,
if
any,
required
to
make
the
amount
on
deposit
(taking
into
account
the
undrawn
amount
of
any
letters
of

credit
posted
therein)
in
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account
to
be
equal
to
the
Term
Loan
Debt
Service
Reserve
Fund
Requirement;

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▪

(vi)
Sixth,
on
each
Quarterly
Funding
Date,
any
excess
into
the
Surplus
Account.

(d)
The
Collateral
Trustee
may

rely
exclusively,
and
without
liability,
on
the
information
set
forth
in
any
certificate
of
an
Authorized
Company
Representative
provided
to
the
Collateral
Trustee
under
this
Section
3.2(c).

(e)

Any
money
remaining
in
the
Revenue
Account,
after
the
right,
title
and
interest
of
the
Collateral
Trustee
in
and
to
the

Trust
Estate
and
all
covenants,
agreements
and
other
obligations
of
the
Company
under
the
Priority
Lien
Documents
shall
have
ceased,
terminated
and
become
void
and
shall
have
been
satisfied
and
discharged
in
accordance
with
Article V
hereof,
shall
be
paid
to
the
Transaction
Documents Company.

(f)
Notwithstanding
the
foregoing,
from
and

after
the
Flow
of
Funds
Termination
Date,
the
Company
shall
not
be
required
to
maintain
the
Rebate
Transfer
Account,
the
Bond
Debt
Service
Transfer
Account
and
the
sub-
accounts
thereof,
the
General
Debt
Service
Transfer
Account
and
the
sub-
accounts
thereof,
and
the
Bond
Debt
Service
Reserve
Deficiency
Account,
or

to
make
any
further
deposits
to
such
Trust
Accounts
in
respect
of
the
Bonds
or
the
other
Parity
Debt,
and
the
balances
deposited
in
such
Trust
Accounts
as
of
such
date
shall
be
released
to
the
Company
promptly
after
certification
to
the
Collateral
Trustee
of
the
Flow
of
Funds
Termination

Date.
This
Section
3.2(f).
shall
be
narrowly
construed
to
apply
only
to
the
Trust
Accounts
set
forth
in
the
preceding
sentence
and
shall
not
be
construed
to
apply
to
or
release
Company
from
its
obligations
under
this
Agreement
with
respect
to
the
Revenue
Account,
the
Operating
and
Maintenance
Account,
the

Term
Loan
Debt
Service
Transfer
Account,
the
Term
Loan
Interest
Sub-
Account,
Term
Loan
Principal
Sub-
Account
and
other
sub-
accounts
thereof,
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account,
the
Term
Loan
IDC
Reserve
Account,
the
Insurance/Condemnation
and
Disposition
Proceeds
Account,
the
Debt
Proceeds
Account
and
the
Surplus
Account.

Section 3.3

Operating
and
Maintenance
Account.

(a)

Establishment.

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Project
Operating
and

Maintenance
Account”
and
numbered
162217-
001
(the
“Operating
and
Maintenance
Account”).

(b)
Deposits.
The
Collateral
Trustee
shall
deposit
to
the
Operating
and
Maintenance
Account
the
moneys
from
the
Revenue
Account
required
to
be
deposited
to
the
Operating
and
Maintenance
Account
pursuant
to
Section
3.2(c)
hereof;
as
received,
all
earnings

and
proceeds
of
investment
of
money
in
the
Operating
and
Maintenance
Account;
and
all
other
money
delivered
to
the
Collateral
Trustee
with
written
direction
from
the
Company
to
deposit
such
amount
in
the
Operating
and
Maintenance
Account.

(c)
Disbursements.
The
Collateral
Trustee
is
hereby
authorized
and
directed
to
disburse

moneys
in
the
Operating
and
Maintenance
Account
(i) first,
to
pay
Administrative
Fees
and
Expenses
of
the
Parity
Lien
Secured
Parties;
and
(ii)
second,
to
pay
Operating

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▪

and
Maintenance
Expenses
upon
receipt
by
the
Collateral
Trustee
of
a
Operating
and
Maintenance
Withdrawal
Requisition
executed

by
an
Authorized
Company
Representative.

(d)

In
paying
any
amounts
under
this
Section,
the
Collateral
Trustee
shall
be
entitled
to
conclusively
rely,
as
to
the
completeness
and
accuracy
of
all
statements
or
representations,
upon
the
approval
of
any
requisition
or
election
by
an
Authorized
Company
Representative,
execution
thereof
to

be
conclusive
evidence
of
such
approval,
and
the
Collateral
Trustee
shall
have
no
duty
to
confirm
the
accuracy
of
such
statements
or
representations.

(e)

Any
money
remaining
in
the
Operating
and
Maintenance
Account
after
the
right,
title
and
interest
of
the
Collateral
Trustee
in
and
to
the
Trust
Estate

has
terminated
in
accordance
with
Section
2.1(c)
hereof,
shall
be
paid
to
the
Company.

(f)
Revenue
Shortfalls.
In
the
event
that
the
amounts
on
deposit
in
the
Revenue
Account
are
unchanged insufficient
to
make
the
transfers
to
the
Operating
and
continue Maintenance
Account
required
by
Section
3.2(c)
(i).
hereof,
the
Collateral

Trustee
shall
transfer
the
additional
amounts
required
to
pay
the
Administrative
Fees
and
Expenses
and
the
Operating
and
Maintenance
Expenses,
in
full
force that
order
(or
the
balances
available
if
less
than
such
amount),
from
the
Surplus
Account
to
the
Operating
and
effect.
However, Maintenance
Account.

Section 3.4

Rebate
Transfer
Account.

(a)
Establishment.
The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the
holders
of
Indebtedness
under
the
Bonds,
entitled
"Montana
Renewables,
LLC
Project
Rebate
Transfer
Account"
and
numbered
162217-

017
(the
"Rebate
Transfer
Account").
The
Rebate
Transfer
Account
shall
be
used
solely
for
the
transfer
from
the
Revenue
Account
to
the
Bond
Trustee
of
the
amounts
required
by
Section
3.2(c).
(ii).

(b)
Deposits.
On
or
prior
to
each
Payment
Date
of
the
Bonds,
there
shall
be
deposited
in

the
Rebate
Transfer
Account
the
amounts
required
pursuant
to
Section
3.2(c).
(ii).

(c)
Disbursements
from
the
Rebate
Transfer
Account.
The
Collateral
Trustee
shall
disburse
money
on
deposit
in
the
Rebate
Transfer
Account
to
the
Bond
Trustee
promptly
after
the
deposit
of
such
funds
in
the
Rebate
Transfer
Account.

Section 3.5

Debt
Service
Transfer
Account.

(a)

Establishment.

(i)

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
solely
for
the
benefit
of
the
holders
of
Indebtedness
under
the
Bonds,
entitled
"Montana
Renewables,

LLC
Bond
Debt
Service
Transfer
Account”
and

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▪

numbered
162217-
002
(the
“Bond
Debt
Service
Transfer
Account”),
and
within
the
Bond
Debt
Service
Transfer
Account,
a
sub-
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
solely
for
the

benefit
of
the
holders
of
Indebtedness
under
the
Bonds,
entitled
"Montana
Renewables,
LLC
Bond
Interest
Service
Transfer
Sub-
Account"
and
numbered
162217-
003
(the
"Bond
Interest
Sub-
Account")
and
a
sub-
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the

holders
of
Indebtedness
under
the
Bonds,
entitled
"Montana
Renewables,
LLC
Bond
Principal
Transfer
Sub-
Account"
and
numbered
162217-
004
(the
"Bond
Principal
Sub-
Account").

(ii)

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company

and
solely
for
the
benefit
of
the
Term
Lenders,
entitled
"Montana
Renewables,
LLC
Term
Loan
Debt
Service
Transfer
Account"
and
numbered
162217-
005
(the
"Term
Loan
Debt
Service
Transfer
Account"),
and
within
the
Term
Loan
Debt
Service
Transfer
Account,
a
sub-
account
in
the
name
of
the
Collateral
Trustee
on

behalf
of
the
Company
and
solely
for
the
benefit
of
the
Term
Lenders,
entitled
“Montana
Renewables,
LLC
Term
Loan
Interest
Transfer
Sub-
Account”
and
numbered
162217-
006
(the
“Term
Loan
Interest
Sub-
Account”)
and
a
sub-
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and

solely
for
the
benefit
of
the
Term
Lenders,
entitled
"Montana
Renewables,
LLC
Term
Loan
Principal
Transfer
Sub-
Account"
and
numbered
162217-
007
(the
"Term
Loan
Principal
Sub-
Account").

(iii)

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on

behalf
of
the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Parity
Lien
Debt
Service
Transfer
Account"
and
numbered
162217-
008
(the
"General
Debt
Service
Transfer
Account"),
and
within
the
Parity
Lien
Debt
Service
Transfer
Account,
a
sub-
account
in
the
name
of

the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Parity
Lien
Debt
Interest
Transfer
Sub-
Account"
and
numbered
162217-
009
(the
"General
Debt
Interest
Sub-
Account")
and
a
sub-
account
in
the
name
of
the
Collateral
Trustee

on
behalf
of
the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Parity
Lien
Debt
Principal
Transfer
Sub-
Account"
and
numbered
162217-
010
(the
"General
Debt
Principal
Sub-
Account").

(b)
Deposits
to
the
Debt
Service
Transfer
Account.
The
Collateral
Trustee
shall
deposit

to
each
Debt
Service
Transfer
Account
(i) the
moneys
from
the
Revenue
Account
required
to
be
deposited
therein
pursuant
to
Section
3.2(c)
hereof;
(ii)
as
received,
all
earnings
and
proceeds
of
investment
of
money
in
the
Debt
Service
Transfer
Account;
and
(iii) all
other
money
delivered
to
the
Collateral
Trustee
with
written

direction
from
the
Company
to
deposit
such
amount
in
the
Debt
Service
Transfer
Account.

(c)
Disbursements
from
the
Debt
Service
Transfer
Account.

On
each
Payment
Date,
upon
receipt
by
the
Collateral
Trustee
of
a
Debt
Service
Withdrawal
Requisition

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▪

executed
by

an
Authorized
Company
Representative,
the
Collateral
Trustee
shall
disburse
money
on
deposit
in
the
applicable
Debt
Service
Transfer
Account
to
the
applicable
holders
of
Indebtedness
to
pay
amounts
due
and
payable
thereunder;
provided,
that,
it
is
understood
and
agreed
that
each
Debt
Service
Transfer
Account
shall
only
be
used
solely

for
the
benefit
of
the
holders
of
Indebtedness
specified
in
Section
3.5(a).

(d)
Revenue
Shortfalls.

If
on
the
Business
Day
immediately
preceding
a
Payment
Date,
the
Collateral
Trustee
receives
a
Debt
Service
Deficiency
Certificate
from
the
Company,
the
Administrative
Agent
(acting
on
the
instructions
of
the
Required
Lenders

(as
defined
in
the
Term
Loan
Agreement)),
or
the
Bond
Trustee
certifying
that
the
balance
in
the
applicable
Debt
Service
Transfer
Account
is
not
sufficient
to
pay
the
amounts
due
on
such
Payment
Date,
the
Collateral
Trustee
shall
transfer:

(i)

to
the
extent
the
deficiency
is
with
respect
to

the
amounts
in
the
Term
Loan
Debt
Service
Transfer
Account,
the
amount
necessary
to
cure
such
deficiency,
from:
(A)
the
Revenue
Account
(on
a
pro
rata
basis
with
any
amounts
required
to
be
transferred
on
the
same
Payment
Date
pursuant
to
Section
3.4(d).
(ii)),
(B)
the
Surplus
Account
(on
a

pro
rata
basis
with
any
amounts
required
to
be
transferred
on
the
same
Payment
Date
pursuant
to
Section
3.4(d),
(ii),
(C)
if
the
Payment
Date
is
during
the
Phase
2
Planned
Turnaround,
from
the
Term
Loan
IDC
Reserve
Account,
and
(D)
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account,
in

that
order.

(ii)

to
the
extent
the
deficiency
is
with
respect
to
amounts
in
the
Bond
Debt
Service
Transfer
Account,
the
amount
necessary
to
cure
such
deficiency,
from:
(A)
the
Revenue
Account
(on
a
pro
rata
basis
with
any
amounts
required
to
be
transferred
on
the
same
Payment
Date
pursuant

to
Section
3.4(d),
(i)),
(B)
the
Surplus
Account
(on
a
pro
rata
basis
with
any
amounts
required
to
be
transferred
on
the
same
Payment
Date
pursuant
to
Section
3.4(d),
(i)),
and
(C)
the
Bond
Debt
Service
Reserve
Deficiency
Account,
in
that
order
Section 3.6

Bond
Debt
Service
Reserve
Deficiency
Account.

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account,
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
solely
for
the
benefit
of
the
holders
of
the
Indebtedness
under
the
Bonds,
entitled
"Montana
Renewables,
LLC
Project
Bond
Debt
Service
Reserve
Deficiency
Account"

and
numbered
162217-
011
(the
"Bond
Debt
Service
Reserve
Deficiency
Account").
The
Bond
Debt
Service
Reserve
Deficiency
Account
shall
be
used
solely
for
the
purpose
of
providing
for
the
payment
of
Indebtedness
under
the
Bonds.

(a)
Deposits.
On
each
Monthly
Funding
Date,
there
shall
be
deposited
in
the
Bond

Debt
Service
Reserve
Deficiency
Account
the
amounts
required
pursuant
to
Section
3.2(c)
of
this
Agreement.

(b)
Disbursements
from
the
Bond
Debt
Service
Reserve
Deficiency
Account.

(i)
The
Collateral
Trustee
shall
disburse
funds
from
the
Bond
Debt
Service
Reserve
Deficiency
Account
in
the
manner
provided
for
in
Section
3.5(d).

▪

(ii)

Upon receipt of the Officers' Certificate set forth in Section 3.2(c), (ii), the Collateral Trustee shall disburse funds to the Rebate Transfer Account, the Bond Interest Sub-Account and the Bond Principal Sub-Account, in each case, in the manner and in

the
amounts
set
forth
in
such
Officers'
Certificate.

Section 3.7

Term
Loan
Debt
Service
Reserve
Deficiency
Account.

The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account,
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
solely
for
the
benefit
of
the
Term

Lenders,
entitled
"Montana
Renewables,
LLC
Project
Term
Loan
Debt
Service
Reserve
Deficiency
Account"
and
numbered
162217-
012
(the
"Term
Loan
Debt
Service
Reserve
Deficiency
Account").
The
Term
Loan
Debt
Service
Reserve
Deficiency
Account
shall
be
used
solely
for
the
purpose
of
providing
for
the
payment
of
Indebtedness
under
the
Term

Loan
Facility.

(a)

Deposits.

On
each
Monthly
Funding
Date,
there
shall
be
deposited
in
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account
the
amounts
required
pursuant
to
Section
3.2(c).
of
this
Agreement.

(b)

Disbursements

from
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account.
The
Collateral
Trustee
shall
disburse
funds

from
the
Term
Loan
Debt
Service
Reserve
Deficiency
Account
in
the
manner
provided
for
in
Section
3.5(d).

Section 3.8

Term
Loan
IDC
Reserve
Account.
The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account,
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and

solely
for
the
benefit
of
the
Term
Lenders,
entitled
"Montana
Renewables,
LLC
Project
Term
Loan
IDC
Reserve
Account"
and
numbered
162217-
013
(the
"Term
Loan
IDC
Reserve
Account").
The
Term
Loan
IDC
Reserve
Account
shall
be
used
solely
for
the
purpose
of
providing
for
the
payment
of
Indebtedness
under
the

Term
Loan
Facility.

(a)

Deposits.

On
the
date
on
which
the
Term
Loans
are
funded
to
Company,
there
shall
be
deposited
in
the
Term
Loan
IDC
Reserve
Account
an
amount
equal
to
the
IDC
Reserve
Fund
Requirement.

(b)

Disbursements

from
the
Term
Loan
IDC
Reserve
Account.
The
Collateral
Trustee

shall
disburse
funds
from
the
Term
Loan
IDC
Reserve
Account
in
the
manner
provided
for
in
Section
3.5(d).

Section 3.9
Insurance/Condemnation
and
Disposition
Proceeds
Account.

(a)
Establishment.
The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of

the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,
entitled
"Montana
Renewables,
LLC
Insurance/Condemnation
and
Disposition
Proceeds
Account"
and
numbered
162217-
014
(the
"Insurance/Condemnation
and
Disposition
Proceeds
Account").

(b)
Deposits.
The
Collateral
Trustee
shall
deposit
to
the
Insurance/Condemnation
and
Disposition
Proceeds
Account
all
amounts
received
as

Asset
Sale
Proceeds
and
Insurance/Condemnation
Proceeds.

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▪

(c)
Disbursements.
Upon
receipt
by
the
Collateral
Trustee
of
a
written
Insurance/Condemnation
and
Disposition
Proceeds
Withdrawal
Requisition
duly
executed
by
an
Authorized
Company
Representative,
the
Collateral
Trustee
is
hereby
authorized
and
directed
to
disburse
moneys
in
the

Insurance/Condemnation
and
Disposition
Proceeds
Account
to:
(i)
payees
or
accounts
specified
in
the
Insurance/Condemnation
and
Disposition
Withdrawal
Requisition,
and
(ii)
to
the
Term
Lenders,
in
each
case,
in
accordance
with
and
to
the
extent
permitted
under
each
Parity
Lien
Document.

(d)

In
paying
any
amounts
under
this
Section,
the

Collateral
Trustee
shall
be
entitled
to
conclusively
rely,
as
to
the
completeness
and
accuracy
of
all
statements
or
representations,
upon
the
approval
of
any
requisition
or
election
by
an
Authorized
Company
Representative,
execution
thereof
to
be
conclusive
evidence
of
such
approval,
and
the
Collateral
Trustee
shall
have
no
duty
to

confirm
the
accuracy
of
such
statements
or
representations.

(e)

Any
money
remaining
in
the
Insurance/Condemnation
and
Disposition
Proceeds
Account
after
the
right,
title
and
interest
of
the
Collateral
Trustee
in
and
to
the
Trust
Estate
has
terminated
in
accordance
with
Section
2.1(c)
hereof,
shall
be
paid
to
the
Company.

Section 3.10

Debt

Proceeds

Account.

(a)

Establishment.

The

Collateral

Trustee

hereby

establishes

or

confirms

that

it

has

established

an

account

in

the

name

of

the

Collateral

Trustee

on

behalf

of

the

Company

and

for

the

benefit

of

the

Parity

Lien

Secured

Parties,

entitled

"Montana

Renewables,

LLC

Debt

Proceeds

Account"

and

numbered
162217-
015
(the
"Debt
Proceeds
Account").

(b)
Deposits.
Each
Obligor
shall
deposit
to
the
Debt
Proceeds
Account
all
amounts
received
as
Debt
Proceeds.

(c)
Disbursements.
Upon
receipt
by
the
Collateral
Trustee
of
an
Debt
Proceeds
Withdrawal
Requisition,
the
Collateral
Trustee
is
hereby
authorized
and
directed
to
disburse
moneys

in
the
Debt
Proceeds
Account
to:
(i)
the
Revenue
Account,
and
(ii)
to
the
Term
Lenders,
in
each
case,
in
accordance
with
and
to
the
extent
permitted
under
each
Parity
Lien
Document.

(d)
In
paying
any
amounts
under
this
Section
3.10,
the
Collateral
Trustee
shall
be
entitled
to
conclusively

rely,
as
to
the
completeness
and
accuracy
of
all
statements
or
representations,
upon
the
approval
of
any
requisition
or
election
by
an
Authorized
Company
Representative,
execution
thereof
to
be
conclusive
evidence
of
such
approval,
and
the
Collateral
Trustee
shall
have
no
duty
to
confirm
the
accuracy
of
such
statements

or
representations.

Section 3.11

Surplus
Account.

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▪

(a)
Establishment.
The
Collateral
Trustee
hereby
establishes
or
confirms
that
it
has
established
an
account
in
the
name
of
the
Collateral
Trustee
on
behalf
of
the
Company
and
for
the
benefit
of
the
Parity
Lien
Secured
Parties,

entitled
"Montana
Renewables,
LLC
Project
Surplus
Account"
and
numbered
162217-
016
(the
"Surplus
Account").

(b)
Deposits.
On
each
Quarterly
Funding
Date,
any
funds
remaining
in
the
Revenue
Account
after
completion
of
transfers
set
forth
in
Section
3.2(c).

(i).
to
Section
3.2(c).
(v)
shall
be
deposited
into
the
Surplus
Account.

(c)
Disbursements.
Upon
receipt
by
the
Collateral
Trustee
of
a
Surplus
Withdrawal
Requisition,
the
Collateral
Trustee
is
hereby
authorized
and
directed
to
disburse
moneys
in
the
Surplus
Account
in
the
following
order
of
priority:

(i)
First,
on
each
Monthly
Funding
Date,
in
the
event
of that
the
amount
on
deposit

in
the
Revenue
Account
is
insufficient
to
make
the
transfers
set
forth
in
Section
3.2(c).
(i).
to
Section
3.2(c).
(v).
the
Collateral
Trustee
shall
transfer
the
amounts
required
to
make
such
transfers
(or
the
balances
available
if
less
than
such
amount)
from
the
Surplus
Account
to
the
applicable
Trust
Account.

(ii)

Second,
on
each
Quarterly
Funding
Date,
to
the
Term
Lenders,
the
amount,
if
any,
inconsistency
between required
to
make
the
terms Excess
Cash
Flow
Prepayment;

(iii)

Third,
on
each
Quarterly
Funding
Date,
to
the
payees
specified
in
the
Surplus
Withdrawal
Requisition,
an
amount
equal
to
scheduled
principal
and
interest
payable

under
the
Intercompany
Loan
Agreement;
provided,
that,
Company
shall
deliver
a
certificate
at
least
two
(2)
Business
Days
prior
to
the
applicable
Quarterly
Funding
Date
that
is
executed
by
a
Authorized
Company
Representative
certifying
that:
(A)
the
date
of
the
Supply proposed
transfer
is
a
Quarterly
Funding
Date,
and
Offtake (B)
each

of
the
applicable
conditions
to
the
making
of
such
payment
set
forth
in
each
of
the
Parity
Lien
Documents
have
been
(or
will
be)
satisfied
on
the
proposed
transfer
date;
provided,
that,
upon
receipt
by
the
Collateral
Trustee
of
notice
of
a
Trigger
Event
from
a
Parity
Lien
Debt
Representative,

no
such
transfers
shall
be
permitted;

(iv)

Fourth,
on
each
Quarterly
Funding
Date,
to
the
payees
specified
in
the
Surplus
Withdrawal
Requisition,
the
amount
equal
to
the
Permitted
Tax
Payment
required
to
be
made
on
such
Quarterly
Funding
Date
pursuant
to
the
Organizational
Documents
of
Company
and
Holdings;
provided,

that
Company
shall
deliver
a
certificate
at
least
two
(2)
Business
Days
prior
to
the
applicable
Quarterly
Funding
Date
that
is
executed
by
a
Authorized
Company
Representative
certifying
that:
(A)
the
date
of
the
proposed
Permitted
Tax
Payment
is
a
Quarterly
Funding
Date,
and
(B)
each
of
the
applicable
conditions

to
the
making
of
a
Permitted
Tax
Payment
set
forth
in
each
of
the
Parity
Lien
Documents
have
been
(or
will
be)
satisfied
on
the
proposed
transfer
date;
provided,
further,
that,
such
certificate
shall
be
countersigned
by
each
Parity
Lien
Representative
to
be
effective;
provided,
further,
that,
upon
receipt
by

the
Collateral
Trustee
of
notice
of
a
default

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▪

or
a
Trigger
Event
from
a
Parity
Lien
Debt
Representative,
no
such
transfers
shall
be
permitted;
and

(v)

Fifth,
on
a
Distribution
Date,
to
the
payees
(including
other
Trust
Accounts
to
the
extent
required

by
the
Parity
Lien
Documents)
specified
in
the
Surplus
Withdrawal
Requisition
in
the
amounts
specified
therein;
provided,
that,
Company
shall
deliver
a
certificate
at
least
two
(2)
Business
Days
prior
to
the
proposed
Distribution
Date
certifying
that:
(A)
the
date
of
the
proposed
transfer
is
a
Distribution
Date,
and
(B)

each
of
the
applicable
conditions
to
the
making
of
a
Restricted
Payment
set
forth
in
each
of
the
Parity
Lien
Documents
have
been
(or
will
be)
satisfied
on
the
proposed
Distribution
Date;
provided,
further,
that,
such
certificate
shall
be
countersigned
by
each
Parity
Lien
Representative
to
be
effective;
provided,
further

that,
upon
receipt
by
the
Collateral
Trustee
of
notice
of
a
Trigger
Event
from
a
Parity
Lien
Debt
Representative,
no
such
transfers
shall
be
permitted.

Section 3.12

Flow
of
Funds
Termination
Date.
If
at
any
time
the
Collateral
Trustee
receives
a
certificate
of
the
Company
reflecting
the
fact
that
the

conditions
therefor
have
been
satisfied
under
the
Indenture
(when
and
if
issued)
(the
"Flow
of
Funds
Termination
Date"),
from
and
after
the
Flow
of
Funds
Termination
Date,
the
Company
shall
not
be
required
to
maintain,
or
to
make
any
further
deposits
to,
the
Bond
Trust
Accounts,
and
the
balances
therein

shall
be
transferred
to
Surplus
Account
promptly
after
certification
to
the
Collateral
Trustee
of
such
Flow
of
Funds
Termination
Date.

Section 3.13

Money
Held
in
Trust.
All
money
required
to
be
deposited
with
or
paid
to
the
Collateral
Trustee
for
deposit
into
any
Account
under
any
provisions
hereof,
and
all

money
held
by
the
Collateral
Trustee
hereunder,
shall
be
held
by
the
Collateral
Trustee
(or
any
of
its
Affiliates
satisfying
the
requirements
of
Section
7.2
hereof)
in
trust,
and
such
money
shall,
while
so
held,
constitute
part
of
the
Trust
Estate
and
be
subject
to
the
lien
hereof.
All
security

for
deposits
shall
be
perfected
in
such
manner
as
may
be
required
or
permitted
under
applicable
law
to
grant
to
the
Collateral
Trustee
a
perfected
lien
on
and
security
interest
in
such
security.

Section 3.14

Investment
or
Deposit
of
Accounts.

(a)

Except
as
otherwise
provided
in
this
Agreement,
(as

amended all
moneys
in
any
of
the
Accounts
established
pursuant
to
this
Agreement
shall
be
invested
and
reinvested
by
the
Collateral
Trustee
as
specifically
directed
in
writing
by
an
Authorized
Company
Representative,
solely
in
Investment
Securities
that
mature,
or
are
subject
to
repurchase,
redemption
or
withdrawal
without
penalty
and
at
the

option
of
the
Collateral
Trustee
on
or
before
the
dates
on
which
the
amounts
invested
are
reasonably
expected
to
be
needed
for
the
purposes
of
this
Second
Amendment) Agreement.
Such
written
direction
by
the
Authorized
Company
Representative
shall
specify
which
Investment
Securities
are
to
be
invested
in
and
in
the
absence

of
such
specification,
the
Collateral
Trustee
shall
hold
such
funds
uninvested.
The
Collateral
Trustee
shall
not
be
liable
for
any
losses,
fees,
taxes,
charges
or
other
consequences
resulting
from
any
noninvestment,
investment,
reinvestment
or
liquidation
of
investments
made
pursuant
to
this
Section.
The
Collateral
Trustee
shall
be
entitled
to
rely

conclusively
upon
the
Company's
specific
investment
directions,
as
applicable,
as
to

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▪

the
fact
that
each
such
investment
meets
the
criteria
of
this
Agreement
for
Investment
Securities.

(b)
Any
Investment
Securities
held
by
the
Collateral
Trustee
may
be
transferred
by
the
Collateral
Trustee

in
accordance
with
Article III
from
any
of
the
Accounts
to
any
other
Transaction
Document, Account
at
the
terms then-
current
market
value
thereof
without
having
to
be
sold
and
purchased
or
repurchased;
provided,
that
after
any
such
transfer
or
transfers,
the
Investment
Securities
in
each
such
Account
shall
be
in
accordance
with

the
provisions
of
this
Agreement.

(c)
Investment
Securities
may
be
purchased
at
such
prices
as
the
Collateral
Trustee
may
be
directed
in
writing
by
an
Authorized
Company
Representative.

All
Investment
Securities
shall
be
acquired
subject
to
the
limitations
as
to
maturities
set
forth
in
this
Section
and
such
additional

limitations
or
requirements
consistent
with
the
foregoing
as
may
be
established
by
request
of
the
Supply Company.

(d)

All
interest,
profits
and
Offtake other
income
received
from
the
investment
of
moneys
in
any
Account
established
pursuant
to
this
Agreement
and
allowed
to
be
invested
in
accordance
herewith
shall
control
(except
solely be

deposited
in
the
Account
from
which
such
investment
was
made.
Notwithstanding
anything
to
the
contrary
contained
in
this
paragraph,
an
amount
of
interest
received
with
respect
to
any
fees,
amounts
and
payments
set
forth Investment
Security
equal
to
the
amount
of
accrued
interest,
if
any,
paid
as
part
of
the
purchase

price
of
such
Investment
Security
shall
be
credited
to
the
fund
from
which
such
accrued
interest
was
paid.

To
the
extent
that
any
Investment
Securities
are
registrable,
such
Investment
Securities
shall
be
registered
in
the
Fees name
of
the
Collateral
Trustee
or
its
nominee.

(e)
Investments
in
any
and
Adjustments

Letter,
as
amended
from
time all
Accounts
may
be
commingled
for
purposes
of
making,
holding
and
disposing
of
investments,
notwithstanding
provisions
herein
for
transfer
to
time,
as or
holding
in
particular
Accounts
of
amounts
received
or
held
by
the
Collateral
Trustee
hereunder,
provided
that
the
Collateral
Trustee
shall
at
all
times
account

for
such
investments
strictly
in
accordance
with
the
Accounts
to
which
they
are
credited
and
otherwise
as
provided
in
this
Agreement.
The
Collateral
Trustee
may
act
as
principal
or
agent
in
the
Fees making
or
disposing
of
any
investment
in
any
Investment
Securities.
The
Collateral
Trustee
may
sell
or
present
for

redemption
any
Investment
Securities
so
purchased
whenever
it
shall
be
necessary
to
provide
moneys
to
meet
any
required
payment,
transfer,
withdrawal
or
disbursement
from
the
fund
to
which
such
Investment
Securities
is
credited,
and
Adjustments
Letter the
Collateral
Trustee
shall
control)
and not
be
liable
or
responsible
for
any
losses,
fees,
taxes

or
other
charges
resulting
from
such
other
Transaction
Documents
(other
than liquidation
of
investments
made
hereunder.

Section 3.15

Valuation
of
Accounts.
For
the
Fees
and
Adjustments
Letter) purpose
of
determining
the
amount
in
any
Account,
all
Investment
Securities
credited
to
such
Account
shall
be
valued
at
their
then-
market
value.
The
Collateral

Trustee
shall
determine
the
market
value
of
the
Investment
Securities
in
each
of
the
Accounts
held
by
the
Collateral
Trustee
under
this
Agreement
on
the
last
day
of
the
year
(or
if
such
day
is
not
a
Business
Day,
the
preceding
Business
Day).
As
soon
as
practicable
after
each
such

valuation
date,
the
Collateral
Trustee
shall
furnish
to
the
Company
a
report
of
the
status
of
the
applicable
Accounts
held
by
the
Collateral
Trustee
as
of
such
date.

Section 3.16

Other
Provisions
relating
to
the
Trust
Accounts.

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-

(a)

The
Collateral
Trustee
shall

be
deemed
to
be
a
“securities
intermediary”
(within
the
meaning
of
Section
8-
102(a)
(14)
of
the
UCC)
with
respect
to
the
Trust
Accounts
(to
the
extent
the
same
are
securities
accounts
within
the
meaning
of
Section
8-
501(a)
of
the
UCC)
and
the
Financial
Assets
credited
to
such
Trust

Accounts,
and
a
"bank"
(within
the
meaning
of
9-
102(a)
of
the
UCC)
with
respect
to
the
Trust
Accounts
and
credit
balances
not
constituting
Financial
Assets
credited
thereto.

(b)

All
amounts
from
time
to
time
held
in
each
Trust
Account
shall
be
disbursed
in
accordance
with
the
terms
hereof,

and
shall
be
subject
to
the
Lien
in
favor
of
the
Collateral
Trustee
(for
the
benefit
of
the
Parity
Lien
Secured
Parties),
shall
constitute
property
of
the
Company
or
the
applicable
Obligor
and
shall
be
subject
to
the
Lien
in
favor
of
the
Collateral
Trustee
(for
the
benefit
of
the

Parity
Lien
Secured
Parties).

(c)
Notwithstanding
anything
to
the
contrary
herein,
the
Lien
on
all
of
the
Company's
right,
title
and
interest
in,
to
and
under
(i)
the
Bond
Debt
Service
Reserve
Deficiency
Account,
the
Bond
Debt
Service
Transfer
Account,
sub-
accounts
thereof
and
all
amounts
on
deposit
therein

or
credited
thereto
(including
any
letters
of
credit)
shall
be
solely
for
the
benefit
of
the
holders
of
Indebtedness
under
the
Bonds,
and
(ii)
the
Term
Loan
Debt
Service
Transfer
Account,
Term
Loan
Debt
Service
Reserve
Deficiency
Account,
Term
Loan
IDC
Reserve
Account,
sub-
accounts
thereof
and
all
amounts
on

deposit
therein
or
credited
thereto
(including
any
letters
of
credit)
shall
be
solely
for
the
benefit
of
the
Term
Lenders.

(d)

To
the
extent
that
any
Trust
Account
established
by
the
Collateral
Trustee
is
or
is
deemed
to
be
a
"securities
account"
(within
the
meaning
of
Section
8-
501

of
the
UCC),
the
Company
or
the
applicable
Obligor
shall
be
deemed
to
be
the
“entitlement
holder”
(within
the
meaning
of
Section
8-
102(a)
(7)
of
the
UCC)
in
respect
of
the
“financial
assets”
(within
the
meaning
of
Section
8-
102(a)
(9)
of
the
UCC,
the
“Financial
Assets”
credited
to

such
Trust
Account.
All
Financial
Assets
in
registered
form
or
payable
to
or
to
the
order
of
and
credited
to
any
Trust
Account
shall
be
registered
in
the
name
of,
payable
to
or
to
the
order
of,
or
specially
endorsed
to,
the
Collateral
Trustee
or
in
blank
by
the
Company.

In
no
case
will
any
Financial
Asset
credited
to
any
such
Trust
Account
be
registered
in
the
name
of,
payable
to
or
to
the
order
of,
or
endorsed
to,
the
Company
or
the
applicable
Obligor
except
to
the
extent
the
foregoing
have
been
subsequently
endorsed
by
the
Company
or
such

Obligor
to
the
Collateral
Trustee
or
in
blank.
Each
item
of
Property
(including
a
security,
security
entitlement,
investment
property,
instrument
or
obligation,
share,
participation,
interest
or
other
property
whatsoever)
credited
to
any
Trust
Account
shall
to
the
fullest
extent
permitted
by
law
be
treated
as
a
Financial
Asset.
Notwithstanding
anything

to
the
contrary
in
this
Agreement,
the
parties
agree
and
acknowledge
that
the
Collateral
Trustee
has
“control”
(within
the
meaning
of
Section
8-
106(e)
or
Section
9-
104,
as
applicable,
of
the
UCC)
of
the
Trust
Accounts,
whether
securities
accounts
or
deposit
accounts,
on
behalf
of
the
applicable
Parity
Lien

Secured
Parties.

(e)

To
the
extent
that
the
Trust
Accounts
are
not
considered
"securities
accounts"
(within
the
meaning
of
Section
8-
501(a)
of
the
UCC),
the
Trust
Accounts
shall
be
deemed
to
be
"deposit
accounts"
(as
defined
in
Section
9-
102(a)
(29)
of
the
UCC),
and

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the
Collateral
Trustee
shall
be
deemed
to
be
acting
not
as
a
securities
intermediary
but
as
a
“bank”
(within
the
meaning
of
Section
9-
102(a)
(8)
of
the
UCC).

(f)
Notwithstanding
anything
to
the
contrary
contained
in
any
other
agreement
relating
to
the
establishment
and
operation
of

the
Trust
Accounts,
to
the
extent
that
Articles
8
and
9
of
the
UCC
apply
to
the
Trust
Accounts,
for
purposes
of
Articles
8
and
9
of
the
UCC,
(i)
the
jurisdiction
of
the
Collateral
Trustee
(in
its
capacity
as
securities
intermediary
and
as
bank)
is
and
shall
be
deemed

to
be
the
State
of
New
York
and
the
laws
of
the
State
of
New
York
govern
the
establishment
and
operation
of
the
Trust
Accounts;
and
(ii)
the
laws
of
the
State
of
New
York
are
applicable
to
all
issues
specified
in
Article
2(1)
of
the
Hague
Securities
Convention.
With

respect
to
each
agreement
governing
any
Trust
Account
(each
an
"account
agreement"),
such
agreement
is
hereby
deemed
to
be
amended,
until
the
termination
of
this
Agreement,
so
that
(i)
the
State
of
New
York
is
the
"securities
intermediary's
jurisdiction"
for
the
purposes
of
the
UCC
and
(ii)
the
law
in

force
in
the
State
of
New
York
is
applicable
to
conform all
issues
specified
in
Article
2(1)
of
the
Hague
Securities
Convention.
The
Company,
each
Obligor
and
the
Collateral
Trustee
agree
that,
until
the
termination
of
this
Agreement,
no
change
will
be
made
to
the
provisions
in
the
preceding
sentence
in

any
account
agreement
relating
to
any
Trust
Account
without
the
prior
written
consent
of
the
Parity
Lien
Secured
Parties.
The
Collateral
Trustee
represents
that
at
the
time
of
any
account
agreement
and
the
establishment
of
any
Trust
Account
it
had
an
office
in
the
United
States
that
was
engaged
in

a
business
or
regular
activity
of
maintaining
securities
accounts.

(g)

If
any
Person
asserts
any
Lien
(including
any
writ,
garnishment,
judgment,
warrant
of
attachment,
execution
or
similar
process)
against
any
Trust
Account
or
the
Trust
Estate,
the
Collateral
Trustee,
upon
receiving
written
notice
thereof,
will
promptly
notify
the
Parity

Lien
Representatives
and
Company
thereof.

(h)

The
Company
and
each
Subsidiary
Guarantor
consents
to
all
of
the
withdrawals
and
transfers
from
the
Trust
Accounts
set
forth
herein.

ARTICLE 4

OBLIGATIONS AND POWERS OF COLLATERAL TRUSTEE

Section 4.1

Appointment
and
Undertaking
of
the
Collateral
Trustee.

-

(a)

Each
Parity
Lien

Secured
Party
(other
than
the
Collateral
Trustee)
acting
as
its
own
Parity
Lien
Representative
or
through
its
respective
Parity
Lien
Representative,
as
applicable,
hereby
appoints
the
Collateral
Trustee
to
serve
as
collateral
trustee
hereunder
on
the
terms
and
conditions
set
forth
herein.
Subject
to,
and
in
accordance
with,
this
Agreement,

the
Collateral
Trustee
will,
and
is
hereby
authorized
to,
as
collateral
trustee,
for
the
benefit
solely
and
exclusively
of
the
present
and
future
Parity
Lien
Secured
Parties:

(i)
accept,
enter
into,
hold,
maintain,
administer
and
enforce
all
Parity
Lien
Security
Documents,
including
all
Collateral
subject
thereto,
and
all
Liens

created
thereunder,
perform
its
obligations
hereunder
and
under
the
Parity
Lien
Security
Documents
and
protect,
exercise
and
enforce
the
interests,
rights,
powers

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▪

and
remedies
granted
or
available
to
it
under,
pursuant
to
or
in
connection
with
the
Parity
Lien
Security
Documents;

(ii)

take
all
lawful
and
commercially
reasonable
actions
permitted
under
the
Parity
Lien
Security
Documents
that
it
may
deem
necessary
or
advisable
to
protect
or
preserve
its
interest
in
the
Collateral
subject
thereto
and
such
interests,
rights,
powers
and
remedies;

(iii)

deliver
and
receive
notices
pursuant
to
this
Agreement

and
the
Parity
Lien
Security
Documents;

(iv)

sell,
assign,
collect,
assemble,
foreclose
on,
institute
legal
proceedings
with
respect
to,
or
otherwise
exercise
or
enforce
the
rights
and
remedies
of
a
secured
party
(including
a
mortgagee,
trust
deed
beneficiary
and
insurance
beneficiary
or
loss
payee)
with
respect
to
the
Collateral

under
the
Parity
Lien
Security
Documents
and
its
other
interests,
rights,
powers
and
remedies;

(v)

remit
as
provided
in
Section
4.4
all
cash
proceeds
received
by
the
Collateral
Trustee
from
the
collection,
foreclosure
or
enforcement
of
its
interest
in
the
Collateral
under
the
Parity
Lien
Security
Documents
or
any

of
its
other
interests,
rights,
powers
or
remedies;

(vi)

execute
and
deliver
amendments
to
the
Parity
Lien
Security
Documents
as
from
time
to
time
authorized
pursuant
to
Section
8.1
accompanied
by
an
Officers'
Certificate
to
the
effect
that
the
amendment
was
permitted
under
Section
8.1;

(vii)

release
or
subordinate

any
Lien
granted
to
it
by
any
Parity
Lien
Security
Document
upon
any
Collateral
if
and
as
required
by
Section
4.2;
and

(viii)

enter
into
and
perform
its
obligations
and
protect,
exercise
and
enforce
its
interest,
rights,
powers
and
remedies
under
this
Agreement.

(b)

Each
party
to
this
Agreement

acknowledges
and
consents
to
the
undertaking
of
the
Collateral
Trustee
set
forth
in
Section
4.1(a).
and
agrees
to
each
of
the
other
provisions
of
this
Agreement
applicable
to
the
Collateral
Trustee.

(c)
Notwithstanding
anything
to
the
contrary
contained
in
this
Agreement,
the
Collateral
Trustee
will
not
commence
any
exercise

of
remedies
or
any
foreclosure
actions
or
otherwise
take
any
action
or
proceeding
against
any
of
the
Collateral
unless
and
until
it
shall
have
been
directed
by
written
notice
of
an
Act
of
Parity
Lien
Debtholders
and
then
only
in
accordance
with
the
provisions
of
this
Agreement.

(d)
Notwithstanding

anything
to
the
contrary
contained
in
this
Agreement,
neither
the
Company
nor
any
of
its
Affiliates
may
serve
as
Collateral
Trustee.

Section 4.2

Release
or
Subordination
of
Liens.
The
parties
hereto
agree
and
acknowledge
that
the
release
of
Liens
on
any
Collateral
securing
Parity
Lien
Obligations
of
any

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Series,
whether
in
connection
with
a
sale,
transfer
or
other
disposition
of
such
Collateral
or
otherwise,
shall
be
governed
by
and
subject
to
the
Parity
Lien
Documents
of
such
Series,
and
that
nothing
in
this
Agreement
shall
be
deemed
to
amend
or
affect

the
terms
of
the
Parity
Lien
Documents
of
such
Series
with
respect
thereto;
provided
that
if,
at
any
time
any
Collateral
is
transferred
to
a
third
party
or
otherwise
disposed
of,
in
each
case,
in
connection
with
any
enforcement
by
the
Collateral
Trustee
in
accordance
with
the
provisions

of
this
Agreement,
then
(whether
or
not
any
Insolvency
or
Liquidation
Proceeding
is
pending
at
the
time)
the
Liens
in
favor
of
the
Collateral
Trustee
for
the
benefit
of
each
Series
of
Parity
Lien
Secured
Parties
upon
such
Collateral
will
automatically
be
released
and
discharged
upon
final
conclusion

of
foreclosure
proceeding
as
and
when,
but
only
to
the
extent,
such
Liens
on
the
Collateral
of
the
Collateral
Trustee
in
respect
of
the
Required
Parity
Lien
Debtholders
are
released
and
discharged;
provided
that
any
proceeds
of
any
Collateral
realized
therefrom
shall
be
applied
pursuant
to
Section
4.4

hereof.
Each
Parity
Lien
Secured
Party
agrees
to
execute
and
deliver
(at
the
sole
cost
and
expense
of
the
Obligors)
all
such
authorizations
and
other
instruments
as
shall
reasonably
be
requested
by
any
other
Parity
Lien
Secured
Party
to
evidence
and
confirm
any
release
of
Collateral
provided
for

in
this
Section.

Section 4.3

Enforcement

of

Liens.

If

the

Collateral

Trustee

at

any

time

receives

written

notice

from

a

Parity

Lien

Representative

stating

that

any

event

has

occurred

that

constitutes

a

default

under

any

Parity

Lien

Document

entitling

the

Collateral

Trustee

to

foreclose

upon,

collect

or

otherwise

enforce

its

*Liens
under
the
Parity
Lien
Security
Documents,
the
Collateral
Trustee
will
promptly
deliver
written
notice
thereof
to
each
Parity
Lien
Representative.
Thereafter,
the
Collateral
Trustee
will
await
direction
by
an
Act
of
Parity
Lien
Debtholders
and,
subject
to
the
terms
of
this
Agreement,
will
act,
or
decline
to
act,
as*

directed
by
an
Act
of
Parity
Lien
Debtholders,
in
the
Supply exercise
and
Offtake enforcement
of
the
Collateral
Trustee's
interests,
rights,
powers
and
remedies
in
respect
of
the
Collateral
or
under
the
Parity
Lien
Security
Documents
or
applicable
law
and,
following
the
initiation
of
such
exercise
of
remedies,
the
Collateral
Trustee
will

act,
or
decline
to
act,
with
respect
to
the
manner
of
such
exercise
of
remedies
as
directed
by
an
Act
of
Parity
Lien
Debtholders.
The
Collateral
Trustee
shall
in
no
way
be
liable
or
obligated
to
take
any
action
in
the
absence
of
(i)
express
provisions
in
the
Parity
Lien

Security
Documents
to
the
contrary
or
(ii)
any
Act
of
Parity
Lien
Debtholders,
and
shall
not
be
liable
or
responsible
for
any
action
taken
upon
an
Act
of
Parity
Lien
Debtholders.

Section 4.4

Application
of
Proceeds
Upon
Event
of
Default
under
any
Parity
Lien
Document.

Upon
written
notice
of
from

a
Parity
Lien
Representative
stating
that
any
event
has
occurred
that
constitutes
a
default
under
any
Parity
Lien
Document
entitling
the
Collateral
Trustee
to
foreclose
upon,
collect
or
otherwise
enforce
its
Liens
under
the
Parity
Lien
Security
Documents:

(a)

The
Collateral
Trustee
will
apply
the
proceeds
of
any
collection,

sale
by
the
Collateral
Trustee,
foreclosure
or
other
realization
upon,
or
exercise
of
any
right
or
remedy
with
respect
to,
any
Collateral
and
the
proceeds
of
any
title
insurance
or
other
insurance
policy
required
under
any
Parity
Lien
Document
or
otherwise
covering
the
Collateral,
and
any
condemnation
proceeds
with
respect

to
the
Collateral,
in
each
case
including
in
connection
with
an
Insolvency
or
Liquidating
Proceeding
and
any
Plan
or
Reorganization
thereunder,
in
the
following
order
of
application;
provided,
that,
it
is
understood
and

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▪

agreed,
that
amounts
on
deposit
(including
any
letters
of
credit)

in
the
Bond
Debt
Service
Reserve
Deficiency
Account,
the
Bond
Debt
Service
Transfer
Account
and
sub-
accounts
thereof
shall
be
applied
only
towards
Obligations
owed
under
the
Bonds;
provided,
further,
that
it
is
understood
and
agreed
that
amounts
on
deposit
(including
any
letters
of
credit)
in
each
of
the
Term

Loan
Debt
Service
Reserve
Deficiency
Account,
the
Term
Loan
IDC
Reserve
Account,
the
Term
Loan
Debt
Service
Transfer
Account
and
sub-
accounts
thereof
shall
be
applied
only
towards
Obligations
owed
under
the
Term
Loan
Agreement
and
Loan
Documents:

(i)

First,
to
the
payment
of
all
amounts
then
due
and

payable
under
this
Agreement
on
account
of
Administrative
Fees
and
Expenses
to
all
Parity
Lien
Secured
Parties;

(ii)

Second,
to
the
respective
Parity
Lien
Representatives
equally
and
ratably
for
application
to
the
payment
of
all
outstanding
interest
accrued
on
Parity
Lien
Obligations
that
are
then
due
and
payable
(including,

to
the
extent
legally
permitted,
all
interest
accrued
thereon
after
the
commencement
of
any
Insolvency
or
Liquidation
Proceeding
at
the
rate,
including
any
applicable
post-
default
rate,
specified
in
the
Parity
Lien
Documents,
even
if
such
interest
is
not
enforceable,
allowable
or
allowed
as
a
claim
in
such
proceeding);

(iii)

Third,
to
the
respective
Parity
Lien
Representatives
equally
and
ratably
for
application
to
the
payment
of
all
outstanding
Parity
Lien
Obligations
that
are
then
due
and
payable,
in
an
amount
sufficient
to
pay
in
full
in
cash
such
outstanding
Parity
Lien
Obligations;

(iv)

Fourth,
to
the
respective
Parity

Lien
Representatives
equally
and
ratably
for
the
cash
collateralization
(at
the
lower
of
(A)
105%
of
the
aggregate
undrawn
amount
thereof
and
(B)
the
percentage
of
the
aggregate
undrawn
amount
required
for
release
of
Liens
under
the
terms
of
the
applicable
Parity
Lien
Documents)
of
all
outstanding
letters
of
credit,

if
any,
the
reimbursement
obligations
in
respect
of
which
constitute
Parity
Lien
Debt;

(v)

Fifth,
to
the
extent
not
paid
above,
to
the
payment
of
any
other
Parity
Lien
Obligations
that
are
then
due
and
payable,
ratably
in
accordance
with
any
other
Parity
Lien
Obligations
that
are
then
due

and
payable
after
deducting
amounts
paid
above;
and

(vi)

Sixth,
any
surplus
remaining
after
the
payment
in
full
in
cash
of
the
amounts
described
in
the
preceding
clauses
will
be
paid
to
the
Company
or
the
applicable
Obligor,
as
the
case
may
be,
and
as
directed
in
writing
by

the
Company,
its
successors
or
assigns,
or
as
a
court
of
competent
jurisdiction
may
direct.

(b)

This
Section
4.4
is
intended
for
the
benefit
of,
and
will
be
enforceable
as
a
third
party
beneficiary
by,
each
present
and
future
holder
of
Parity
Lien
Obligations,
each
present
and
future
Parity

Lien
Representative
and
the
Collateral
Trustee
as
holder
of
Parity
Liens.
The
Parity
Lien
Representative
of
each
future
issuance
of
Additional
Bonds
and

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▪

each
future
Series
of
Parity
Lien
Debt
will
be
required
to
deliver
to
the
Collateral
Trustee
a
Collateral
Trust
Joinder

and
an
Additional
Secured
Debt
Designation
as
provided
in
Section
4.8
at
the
time
of
incurrence
of
such
Series
of
Parity
Lien
Debt.

(c)

In
making
the
determinations
and
allocations
in
accordance
with
this
Section
4.4,
the
Collateral
Trustee
may
conclusively
rely
upon
information
supplied
by
the
relevant
Parity

Lien
Representative
as
to
the
amounts
of
unpaid
principal
and
interest
and
other
amounts
outstanding
with
respect
to
its
respective
Parity
Lien
Debt
and
any
other
Parity
Lien
Obligations.

(d)

If,
in
any
Insolvency
or
Liquidation
Proceeding,
the
Collateral
Trustee's
security
interest
hereunder
and
under
the
Parity
Lien
Security

Documents
is
enforced
with
respect
to
some,
but
not
all,
of
the
Parity
Lien
Obligations
then
outstanding,
the
Collateral
Trustee
shall
nonetheless
apply
the
proceeds
of
the
Collateral
for
the
benefit
of
the
holders
of
all
Parity
Lien
Obligations
in
the
proportions
and
subject
to
the
priorities
specified
herein.
To

the
extent
that
the
Collateral
Trustee
distributes
proceeds
of
Collateral
collected
with
respect
to
Parity
Lien
Obligations
held
by
one
holder
to
or
on
behalf
of
Parity
Lien
Obligations
held
by
a
second
holder,
the
first
holder
shall
be
deemed
to
have
purchased
a
participation
in
the
Parity
Lien
Obligations

held
by
the
second
holder,
or
shall
be
subrogated
to
the
rights
of
the
second
holder
to
receive
any
subsequent
payments
and
distributions
made
with
respect
to
the
portion
thereof
paid
or
to
be
paid
by
the
application
of
such
proceeds
of
Collateral.

Section 4.5

Powers
of
the
Collateral

Trustee.

(a)

The
Collateral
Trustee
is
irrevocably
authorized
and
empowered
to
enter
into
and
perform
its
obligations
and
protect,
perfect,
exercise
and
enforce
its
interest,
rights,
powers
and
remedies
under
the
Parity
Lien
Security
Documents
and
applicable
law
and
in
equity
and
to
act
as
set
forth
in

this
Article
4
or,
subject
to
the
other
provisions
of
this
Agreement,
as
requested
in
any
lawful
directions
given
to
it
in
accordance
with
this
Agreement
from
time
to
time
in
respect
of
any
matter
by
an
Act
of
Parity
Lien
Debtholders.

(b)

No
Parity
Lien
Representative
or
holder

of
Parity
Lien
Obligations
(other
than
the
Collateral
Trustee)
will
have
any
liability
whatsoever
for
any
act
or
omission
of
the
Collateral
Trustee,
and
the
Collateral
Trustee
will
have
no
liability
whatsoever
for
any
act
or
omission
of
any
Parity
Lien
Representative
or
any
holder
of
Parity
Lien
Obligations.

Section 4.6

Documents
and
Communications.
The
Collateral
Trustee
will
permit
each
Parity
Lien
Representative
and
each
holder
of
Parity
Lien
Obligations
upon
reasonable
written
notice
and
at
reasonable
times
from
time
to
time
to
inspect
and
copy,
at
the
cost
and
expense
of
the
party
requesting
such
copies,
any
and
all

Parity
Lien
Security
Documents
and
other
documents,
notices,
certificates,
instructions
or
communications
received
by
the
Collateral
Trustee
in
its
capacity
as
such.

Section 4.7

For
Sole
and
Exclusive
Benefit
of
Holders
of
Parity
Lien
Obligations.
The
Collateral
Trustee
will
accept,
hold,
administer
and
enforce
all
Liens
on
the
Collateral
at

any
time
transferred
or
delivered
to
it
and
all
other
interests,
rights,
powers
and

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.

remedies
at
any
time
granted
to
or
enforceable
by
the
Collateral
Trustee
and
all
other
property
of
the
Trust
Estate
solely
and
exclusively
for
the
benefit
of

the
present
and
future
holders
of
present
and
future
Parity
Lien
Obligations,
and
will
distribute
all
proceeds
received
by
it
in
realization
thereon
or
from
enforcement
thereof
solely
and
exclusively
pursuant
to
the
provisions
of
Section
4.4.

Section 4.8

Additional
Parity
Lien
Debt.

|

(a)

The
Collateral
Trustee

will,
as
trustee
hereunder,
perform
its
undertakings
set
forth
in
Section
4.1(a).
with
respect
to
any
Parity
Lien
Obligations
constituting
Additional
Bonds
or
a
Series
of
Parity
Lien
Debt
that
is
issued
or
incurred
after
the
date
hereof;
provided
that:

(i)

such
Parity
Lien
Obligations
are
identified
as
Parity

Lien
Debt
in
accordance
with
the
procedures
set
forth
in
Section
4.8(b);
and

(ii)

the
designated
Parity
Lien
Representative
identified
pursuant
to
Section
4.8(b),
signs
a
Collateral
Trust
Joinder
and
an
Additional
Secured
Debt
Designation
and
delivers
the
same
to
the
Collateral
Trustee.

(b)

The
Company
will
be
permitted

to
designate
as
an
additional
holder
of
Parity
Lien
Debt
hereunder
each
Person
who
is,
or
who
becomes,
the
registered
holder
of
Parity
Lien
Debt
incurred
by
the
Company
after
the
date
of
this
Agreement
in
accordance
with
the
terms
of
all
applicable
Parity
Lien
Documents.
The
Company
may
only

effect
such
designation
by
delivering
to
the
Collateral
Trustee
and
the
Parity
Lien
Representatives
an
Additional
Parity
Lien
Debt
Certificate
that:

(i)

states
that
the
applicable
Obligor
intends
to
incur
additional
Parity
Lien
Debt
(“Additional
Parity
Lien
Debt”)
that
is
permitted
by
each
applicable
Parity
Lien
Document
to
be

secured
with
a
Parity
Lien
equally
and
ratably
with
all
other
Parity
Lien
Debt,
it
being
expressly
understood
and
agreed
that
such
Additional
Parity
Lien
Debt
may
not
be
Indebtedness
of
any
such
Obligor
to
any
of
its
Subsidiaries
or
Affiliates;

(ii)
specifies
the
name,
address
and
contact
information

of
the
Parity
Lien
Representative
for
such
series
of
Additional
Parity
Lien
Debt
for
purposes
of
Section
8.7:

(iii)
attaches
as
Exhibit
1
to
such
Additional
Parity
Lien
Debt
Certificate
a
Reaffirmation
Agreement
in
substantially
the
form
attached
as
Exhibit
1
to
Exhibit
A
of
this
Agreement,
which
Reaffirmation

Agreement
has
been
duly
executed
by
each
Obligor;
and

(iv)

states
that
the
Company
has
caused
a
copy
of
the
Additional
Parity
Lien
Debt
Certificate
and
the
related
Collateral
Trust
Joinder
to
be
delivered
to
each
then
existing
Parity
Lien
Representative;

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▪

provided that,
no
Indebtedness
incurred
under
the
Working
Capital
Facility
Credit
Agreement
or
any
Inventory
Agreement
may
be
designated
as
Parity
Lien
Debt
pursuant
to
this
Section
4.8.

(c)
Although
the
Company
shall
be
required
to
deliver
a
copy
of
each
Additional
Parity
Lien
Debt
Certificate,
each
Collateral
Trust
Joinder

and
each
Additional
Secured
Debt
Designation
to
each
then
existing
Parity
Lien
Representative,
the
failure
to
so
deliver
a
copy
of
the
Additional
Parity
Lien
Debt
Certificate,
Collateral
Trust
Joinder
and/or
Additional
Secured
Debt
Designation
to
any
then-
existing
Parity
Lien
Representative
shall
not
affect
the
status
of
such
debt

as
Additional
Parity
Lien
Debt
if
the
other
requirements
of
this
Section
4.8
are
complied
with.

(d)

The
Collateral
Trustee
shall
have
the
right
to
request
that
the
Company
provide
to
it
a
customary
legal
opinion
or
opinions
of
counsel
(subject
to
customary
assumptions,
qualifications
and
exceptions
and
substantially

similar
to
any
such
opinions
delivered
to
it
on
the
date
of
this
Agreement
as
it
relates
to
the
subject
matter
thereof)
as
to
the
Additional
Parity
Lien
Debt
being
secured
by
a
valid
and
perfected
security
interest
in
the
Collateral;
provided
that
(i)
such
legal
opinion
or
opinions
need

not
address
any
collateral
of
a
type
not
previously
covered
by
any
legal
opinion
delivered
by
or
on
behalf
of
the
Company
and
(ii)
nothing
shall
preclude
such
legal
opinion
or
opinions
from
being
delivered
on
a
post-
closing
basis
after
the
incurrence
of
such
Additional
Parity
Lien
Debt
if

permitted
by
the
Parity
Lien
Representative
for
such
Additional
Parity
Lien
Debt.

(e)
Notwithstanding
the
foregoing,
nothing
in
this
Agreement
will
be
construed
to
allow
the
Company
to
incur
additional
Indebtedness
(including
Additional
Bonds)
unless
otherwise
permitted
by
the
terms
of
each
Parity
Lien
Document.

(f)
With
respect
to

any
Parity
Lien
Obligations
constituting
Additional
Bonds
or
a
Series
of
Parity
Lien
Debt
that
is
issued
or
incurred
after
the
date
hereof,
each
Obligor
agrees
to
take
such
actions
(if
any)
as
may
from
time
to
time
reasonably
be
requested
by
the
Collateral
Trustee,
provided
that
the
Collateral
Trustee

shall
have
no
obligation
to
do
so
and
shall
have
no
liability
in
connection
with
or
in
failing
to
do
so,
or
any
Act
of
Parity
Lien
Debtholders,
and
each
Obligor
and
the
Collateral
Trustee
shall
enter
into
such
technical
amendments,
modifications
and/or
supplements
to
the
then
existing
Guarantees
and

Parity
Lien
Security
Documents
(or
execute
and
deliver
such
additional
Parity
Lien
Security
Documents)
as
may
from
time
to
time
be
reasonably
requested
by
such
Persons,
provided
that
the
Collateral
Trustee
shall
have
no
obligation
to
do
so
and
shall
have
no
liability
in
connection
with
or
failing
to
do

so
unless
the
Collateral
Trustee
shall
have
received
(i)
a
certificate
of
an
officer
of
the
Company
certifying
that
the
Collateral
Trustee
is
entitled
to
take
such
action
and
(ii)
a
customary
legal
opinion
or
opinions
of
counsel
(subject
to
customary
assumptions,
qualifications
and
exceptions
and
substantially
similar
to
any

such
opinions
delivered
to
it
on
the
date
of
this
Agreement
as
it
relates
to
the
subject
matter
thereof)
as
to
authority
of
the
Collateral
Trustee
to
enter
into
any
Additional
Parity
Lien
Debt,
to
ensure
that
the
Additional
Bonds
or
the
Additional
Parity
Lien
Debt,
as
applicable,
are
secured

by,
and
entitled
to
the
benefits
of,
the
Parity
Lien
Security
Documents,
and
each
Parity
Lien
Secured
Party
(by
its
acceptance
of
the
benefits
hereof)
hereby
agrees
to,
and
authorizes
the
Collateral
Trustee
to
enter
into,
any
such
technical

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▪

amendments,
modifications
and/or
supplements

(and
additional
Parity
Lien
Security
Documents).
Each
Obligor
hereby
further
agrees
that,
if
there
are
any
recording,
filing
or
other
similar
fees
payable
in
connection
with
any
of
the
actions
to
be
taken
pursuant
to
this
Section
4.8(f).
or
Section
4.8(g),
all
such
amounts
shall
be
paid
by,
and
shall

be
for
the
account
of,
the
Company
and
the
other
respective
Obligors,
on
a
joint
and
several
basis.

(g)
Without
limitation
of
the
foregoing,
each
Obligor
agrees
to
take
the
following
actions
with
respect
to
the
Mortgaged
Properties
with
respect
to
all
Additional
Parity
Lien
Debt
(it
being
understood

that
any
such
actions
may
be
taken
following
the
incurrence
of
any
such
Additional
Parity
Lien
Debt
on
a
post-
closing
basis
if
permitted
by
the
Parity
Lien
Representative
for
such
Additional
Parity
Lien
Debt)
to
the
extent
necessary
to
ensure
that
such
Additional
Parity
Lien
Debt
is
secured
by.

and
entitled
to
the
benefits
of,
the
Parity
Lien
Security
Documents
with
respect
to
such
Mortgaged
Properties:

(i)

each
applicable
Obligor
shall
enter
into,
and
deliver
to
the
Collateral
Trustee
a
mortgage
modification
or
new
mortgage,
debenture,
hypothec,
deed
of
trust,
deed
to
secure
Indebtedness
or
similar
document,
instrument

or
agreement
with
regard
to
each
Real
Property
subject
to
a
mortgage,
debenture,
hypothec,
deed
of
trust,
deed
to
secure
Indebtedness
or
similar
document,
instrument
or
agreement
(each
such
mortgage,
debenture,
hypothec,
deed
of
trust,
deed
to
secure
Indebtedness
or
similar
document,
instrument
or
agreement
an
"Additional
Mortgage
Instrument"),
in

proper
form
for
recording
in
all
applicable
jurisdictions,
in
a
form
and
substance
reasonably
satisfactory
to
the
Collateral
Trustee;
and

(ii)
each
applicable
Obligor
will
cause
to
be
delivered
to
the
Collateral
Trustee
a
local
counsel
opinion
(subject
to
customary
assumptions,
qualifications
and
exceptions
and
substantially
similar
to
any

such
opinions
delivered
to
it
on
the
date
of
this
Agreement
as
it
relates
to
the
subject
matter
thereof)
to
the
effect
that
the
Collateral
Trustee
has
a
valid
and
perfected
Lien
with
respect
to
such
Mortgaged
Property.

(h)

If
and
to
the
extent
any
or
all
obligations
owed

by
the
Company
to
Stonebriar
under
the
Stonebriar
Sale
Leaseback
Obligations
are
discharged,
the
assets
previously
pledged
to,
or
sold
to
and
leased
back
from,
Stonebriar
will
be
added
to
the
Collateral
subject
to
this
Agreement.

Section 4.9

Prohibition

on

Contesting

Liens;

No

Interference.

Each

Parity

Lien

Representative

agrees,

on

behalf
of
itself
and
its
related
Parity
Lien
Secured
Parties,
that
such
Parity
Lien
Representative
and
any
of
their
respective
related
Parity
Lien
Secured
Parties
will
not
(and
each
hereby
waives
any
right
to)
contest
or
support
any
other
Person
in
contesting
in
any
proceeding
(including
any
Insolvency
or

Liquidation
Proceeding):

(a)

the
perfection,
priority,
validity,
attachment
or
enforceability
of
a
Lien
held
by
or
on
behalf
of
the
Collateral
Trustee
in
all
or
any
part
of
the
Collateral;

(b)

the
exercise
by
the
Collateral
Trustee
of
any
rights
or
remedies
relating
to
the
Collateral;
and

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▪

(c)

the
relative
rights
and
duties
of
the
holders
of
Parity
Lien
Debt
established
or
granted
and/or
established
in
this
Agreement
or
any
Parity
Lien
Security
Document
with
respect
to
such
Liens;

provided
that
nothing
in
this
Agreement
shall
be
construed
to
prevent
or

impair
the
rights
of
any
Parity
Lien
Representative
or
any
of
their
respective
related
Parity
Lien
Secured
Parties
to
enforce
this
Agreement.

Section 4.10

Prohibition
on
Challenging
this
Agreement.
Each
of
Macquarie the
Collateral
Trustee
and
each
Parity
Lien
Representative
agrees,
on
behalf
of
itself
and
its
related
Parity
Lien
Secured

Parties,
that
neither
they
nor
any
of
their
respective
related
Parity
Lien
Secured
Parties
will
attempt,
directly
or
indirectly,
whether
by
judicial
proceedings
or
otherwise,
to
challenge
the
enforceability
of
any
provision
of
this
Agreement;
provided
that
nothing
in
this
Agreement
shall
be
construed
to
prevent
or
impair
the
rights

of
any
party
to
this
Agreement
and
any
of
its
related
Parity
Lien
Secured
Parties
to
enforce
this
Agreement.

ARTICLE 5

OBLIGATIONS ENFORCEABLE BY THE OBLIGORS

Section 5.1

Release
of
Liens
on
Collateral.

(a)

The
Collateral
Trustee's
Liens
upon
the
Collateral
will
be
automatically
released:

(i)

in
whole,
upon

(A)
payment
in
full
in
cash
of
(1)
all
outstanding
Parity
Lien
Debt
and
(2)
all
other
Parity
Lien
Obligations
(other
than
contingent
indemnity
obligations
for
which
no
claim
has
been
made),
(B)
termination
or
expiration
of
all
commitments
to
extend
credit
under
all
Parity
Lien
Documents,
and
(C)
the

cancellation
or
termination
or
cash
collateralization
(at
the
lower
of
(1)
105%
of
the
aggregate
undrawn
amount
and
(2)
the
percentage
of
the
aggregate
undrawn
amount
required
for
release
of
Liens
under
the
terms
of
the
applicable
Parity
Lien
Documents)
of
all
outstanding
letters
of
credit
issued
pursuant
to
any

Parity
Lien
Documents;

(ii)

as
to
any
Collateral
of
an
Obligor
that
is
(A)
released
as
an
Obligor
under
each
Parity
Lien
Document

and
(B)
is
not
obligated
(as
primary
obligor
or
guarantor)
with
respect
to
any
other
Parity
Lien
Obligations,
in
each
case
of
(A)
and
(B),
so

long
as
the
respective
release
is
expressly
permitted
by
the
terms
of
all
Parity
Lien
Documents
which
then
remain
in
effect;

(iii)

as
to
any
Collateral
of
the
Company
that
is
sold,
transferred
or
otherwise
disposed
of
by
the
Company
to
a
Person
that
is
not
(either
before
or

after
such
sale,
transfer
or
disposition)
the
Company
or
an
Obligor
in
a
transaction
or
other
circumstance
that
is
expressly
permitted
by
all
of
the
Parity
Lien
Documents,
at
the
time
of
such
sale,
transfer
or
other
disposition
or
to
the
extent
of
the
interest
sold,
transferred
or
otherwise
disposed

of;
provided
that
the
Collateral
Trustee's

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▪

Liens
upon
the
Collateral
will
not
be
released
if
the
sale
or
other
disposition
is
subject
to
Article
5
of
the
Indenture;

(iv)

in
whole,
if
the
Liens
on
such
Collateral
have
been
released
in
accordance

with
the
terms
of
each
Series
of
Parity
Lien
Debt;
or

(v)

as
to
a
release
of
all
or
substantially
all
of
the
Collateral,
if
(A)
consent
to
the
release
of
that
Collateral
has
been
given
by
the
requisite
percentage
or
number
of
holders
of
each
Series
of
Parity

Lien
Debt
at
the
time
outstanding
as
provided
for
in
the
applicable
Parity
Lien
Documents
and
(B)
the
Company
has
delivered
an
Officers'
Certificate
to
the
Collateral
Trustee
certifying
that
all
such
necessary
consents
have
been
obtained.

(b)

The
Collateral
Trustee
hereby
agrees
that
in
the
case
of
any

release
pursuant
to
Section
5.1(a).
(iii),
if
the
terms
of
any
such
sale,
transfer
or
other
disposition
require
the
payment
of
the
purchase
price
to
be
contemporaneous
with
the
delivery
of
the
applicable
release,
then,
at
the
written
request
of
and
at
the
expense
of
the
Company
or
other
applicable

Obligor,
the
Collateral
Trustee
will
either
(A)
be
present
at
and
deliver
the
release
at
the
closing
of
such
transaction
or
(B)
deliver
the
release
under
customary
escrow
arrangements
that
permit
such
contemporaneous
payment
and
delivery
of
the
release.

Section 5.2

Collateral
Trustee
not
Required
to
Serve.
File
or
Record.

Subject
to
Section
5.1
and
Article
6
hereof,
the
Collateral
Trustee
is
not
required
to
serve,
file,
register
or
record
any
instrument
releasing
or
subordinating
its
Liens
on
any
Collateral;
provided
that
if
the
Company
shall
make
a
written
demand
for
a
termination
statement
under
Section
9-
513(c)
of
the

UCC,
the
Collateral
Trustee
shall
comply
with
the
written
request
of
the
Company
to
comply
with
the
requirements
of
such
UCC
provision
(which
written
request
must
be
accompanied
by
an
Officers'
Certificate
relating
to
the
same).

Section 5.3

Release
of
Liens
in
Respect
of
Bonds.
In
addition
to
any
release

pursuant
to
Section
5.1
hereof,
the
Collateral
Trustee's
Parity
Liens
will
no
longer
secure
the
Bonds
outstanding
under
the
Indenture
or
any
other
Obligations
under
the
Bond
Documents
(as
defined
in
the
Indenture),
and
the
Company
hereby
reaffirms
its right
of
the
holders
of
the
Bonds
to
the
benefits
and
proceeds

of
the
Collateral
Trustee's
Parity
Liens
on
the
Collateral
will
terminate
and
be
discharged
as
provided
for
in
Section
9.01
of
the
Indenture,
and
after
such
termination
and
discharge
of
the
Indenture,
all
covenants,
limitations,
obligations
and
restrictions
contained
in
the
Indenture
referred
to
or
referenced
herein
as
applying
to

or
restricting
the
actions
or
conduct
of
any
of
the
Obligors
shall
be
without
further
force
or
effect.
For
the
avoidance
of
doubt,
such
release,
termination
and
discharge
with
respect
to
the
Bonds
and
any
other
Obligations
under
the
Transaction Bond
Documents
shall
not
release
or
discharge
Liens
securing
Parity
Lien

Obligations
other
than
the
Bonds
and
any
other
Obligations
under
the
Bond
Documents.

Section 5.4

Release
of
Liens
in
Respect
of
any
Series
of
Parity
Lien
Debt
other
than
the
Bonds.
In
addition
to
any
release
pursuant
to
Section
5.1
hereof,
as
to
any
Series
of
Parity
Lien
Debt

other
than
the
Bonds,
the
Collateral
Trustee's
Parity
Lien
will
no
longer
secure
such
Series
of
Parity
Lien
Debt
(a)
if
such
Parity
Lien
Debt
has
been
paid
or
satisfied
in
full,
all
commitments
to
extend
credit
in
respect
of
such
Series
of
Parity
Lien
Debt
have
been
terminated,

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▪

all
obligations
required
to
be
cash
collateralized
thereunder
have
been
satisfactorily
cash
collateralized,
and
all
other
Parity
Lien
Obligations
related
thereto
that
are
outstanding
and
unpaid
at
the
time
such
Series
of
Parity
Lien
Debt
is
paid
are
also
paid
or
satisfied
in

full
or
(b)
if
such
Liens
are
otherwise
released
by
the
terms
of
the
Parity
Lien
Documents
applicable
to
such
Parity
Lien
Debt.

ARTICLE 6

IMMUNITIES OF THE COLLATERAL TRUSTEE

Section 6.1

No
Implied
Duty.
The
Collateral
Trustee
will
not
have
any
fiduciary
duties
nor
will
it
have
responsibilities
or

obligations
other
than
those
expressly
assumed
by
it
in
this
Agreement
and
the
other
Parity
Lien
Security
Documents.
No
implied
covenants,
functions,
responsibilities,
duties,
obligations
or
liabilities
shall
be
read
into
this
Agreement
or
the
other
Parity
Lien
Documents,
or
otherwise
exist
against
the
Collateral
Trustee.
Without
limiting
the
generality

of
the
foregoing
sentences,
the
use
of
the
term
"trustee"
in
this
Agreement
with
reference
to
the
Collateral
Trustee
is
not
intended
to
connote
any
fiduciary
or
other
implied
(or
express)
obligations
arising
under
agency
doctrine
of
any
applicable
law.
Instead,
such
term
is
used
merely
as
a
matter
of

market
custom,
and
is
intended
to
create
or
reflect
only
an
administrative
relationship
between
independent
contracting
parties.
The
Collateral
Trustee
will
not
be
required
to
take
any
action
that
is
contrary
to
applicable
law
or
any
provision
of
this
Agreement
or
the
other
Parity
Lien
Security
Documents.

Section 6.2

Appointment

of
Agents
and
Advisors.
The
Collateral
Trustee
may
execute
any
of
the
trusts
or
powers
hereunder
or
perform
any
duties
hereunder
either
directly
or
by
or
through
agents,
attorneys,
accountants,
appraisers
or
other
experts
or
advisors
selected
by
it
in
good
faith
as
it
may
reasonably
require
and
will
not

be
responsible
for
any
misconduct
or
negligence
on
the
part
of
any
of
them.

Section 6.3

Other
Agreements.
The
Collateral
Trustee
has
accepted
its
appointment
as
collateral
trustee
hereunder
and
is
bound
by
the
Parity
Lien
Security
Documents
executed
by
the
Collateral
Trustee.
The
Collateral
Trustee
shall
at
the
request

of
the
Company
execute
additional
Parity
Lien
Security
Documents
delivered
to
it
after
the
date
of
this
Agreement
(including
to
secure
Obligations
arising
under
Additional
Parity
Lien
Debt
to
the
extent
such
Obligations
are
permitted
to
be
incurred
and
secured
under
each
Parity
Lien
Document);
provided
that
such
additional
Parity

Lien
Security
Documents
do
not
adversely
affect
the
rights,
privileges,
benefits
and
immunities
of
the
Collateral
Trustee
or
conflict
with
the
terms
of
this
Agreement.
The
Collateral
Trustee
will
not
otherwise
be
bound
by,
or
be
held
obligated
by,
the
provisions
of
any
credit
agreement,
indenture
or
other
agreement
governing

Parity
Lien
Debt
(other
than
this
Agreement
and
the
other
Parity
Lien
Security
Documents
to
which
it
is
a
party party).

Section 6.4

Solicitation
of
Instructions.

(a)

The
Collateral
Trustee
may
at
any
time
solicit
written
confirmatory
instructions,
in
the
form
of
an
Act
of
Parity
Lien
Debtholders,
an
Officers'

Certificate,
a
legal
opinion
from
counsel
to
the
Company
or
an
order
of
a
court
of
competent
jurisdiction,
as
to
any
action
that
it
may
be
requested
or
required
to
take,
or
that
it
may
propose
to
take,
in
the
performance
of
any
of
its
obligations
under
this
Agreement
or

the
other
Parity
Lien

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▪

Security
Documents,
and
agrees the
Collateral
Trustee
will
not
be
liable
for
any
action
it
takes
or
omits
to
take
in
good
faith
in
reliance
on
any
such
certificate,
opinion
or
order.
In
the
absence
of
bad
faith
on
its

part,
the
Collateral
Trustee
may
rely,
and
will
be
protected
in
acting
or
refraining
from
acting,
upon
any
resolution,
certificate,
statement,
instrument,
opinion,
report,
notice,
request,
direction,
consent,
order,
bond,
debenture,
note,
other
evidence
of
indebtedness
or
other
paper
or
document
believed
by
it
to
be
genuine
and
to
have

been
signed
or
presented
by
the
proper
Person.
The
Collateral
Trustee
need
not
investigate
any
fact
or
matter
stated
in
the
document,
but,
in
the
case
of
any
document
which
is
specifically
required
to
be
furnished
to
the
Collateral
Trustee
pursuant
to
any
provision
hereof,
the
Collateral
Trustee
shall
examine

the
document
to
determine
whether
it
conforms
to
the
requirements
of
this
Agreement
(but
need
not
confirm
or
investigate
the
accuracy
of
mathematical
calculations
or
other
facts
stated
therein).

(b)

No
written
direction
given
to
the
Collateral
Trustee
by
an
Act
of
Parity
Lien
Debtholders
that
in
the
sole

judgment
of
the
Collateral
Trustee
imposes,
purports
to
impose
or
might
reasonably
be
expected
to
impose
upon
the
Collateral
Trustee
any
obligation
or
liability
not
set
forth
in
or
arising
under
this
Agreement
and
the
other
Parity
Lien
Security
Documents
will
be
binding
upon
the
Collateral
Trustee
unless
the
Collateral

Trustee
elects,
at
its
sole
option,
to
accept
such
direction.

(c)

The
Collateral
Trustee
shall
be
under
no
obligation
to
exercise
any
of
the
rights
or
powers
vested
in
it
by
this
Agreement
at
the
request,
order
or
direction
of
the
Required
Parity
Lien
Debtholders
pursuant
to
the
provisions

of
this
Agreement,
unless
such
holders
shall
have
furnished
to
the
Collateral
Trustee
reasonable
security
or
indemnity
satisfactory
to
it
against
the
costs,
expenses
and
liabilities
which
may
be
incurred
therein
or
thereby.

(d)

The
Collateral
Trustee
shall,
within
one
Business
Day
of
the
receipt
by
it
of
any

Act
of
Parity
Lien
Debtholders,
deliver
a
copy
of
such
Act
of
Parity
Lien
Debtholders
to
each
Parity
Lien
Representative.

Section 6.5

Limitation
of
Liability.
The
Collateral
Trustee
will
not
be
responsible
or
liable
for
any
action
taken
or
omitted
to
be
taken
by
it
hereunder
or
under
any
other

Parity
Lien
Security
Document,
except
as
determined
by
a
court
of
competent
jurisdiction
in
a
final,
nonappealable
judgment
to
have
resulted
from
the
Collateral
Trustee's
gross
negligence
or
willful
misconduct.

Section 6.6

Documents
in
Satisfactory
Form.
The
Collateral
Trustee
will
be
entitled
to
require
that
all
Transaction agreements,
certificates,
opinions,
instruments

and
other
documents
at
any
time
submitted
to
it,
including
those
expressly
provided
for
in
this
Agreement
but
excluding
Exhibits
attached
hereto,
be
delivered
to
it
in
a
form
and
with
substantive
provisions
reasonably
satisfactory
to
it.
The
Collateral
Trustee
(i)
makes
no
representation
as
to
the
validity
or
adequacy

of
any
Parity
Lien
Document
and
(ii)
is
not
responsible
for
any
statement
in
any
Parity
Lien
Document
other
than
its
certificate
of
authentication
and
any
representations
and
warranties
made
by
it.

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Section 6.7

Entitled
to
Rely.
The
Collateral
Trustee
may
seek
and
rely

upon,
and
shall
be
fully
protected
in
relying
upon,
any
judicial
order
or
judgment,
upon
any
advice,
opinion
or
statement
of
legal
counsel,
independent
consultants
and
other
experts
selected
by
it
in
good
faith
and
upon
any
certification,
instruction,
notice
or
other
writing
delivered
to
it
by
the
Company
in

compliance
with
the
provisions
of
this
Agreement
or
delivered
to
it
by
any
Parity
Lien
Representative
as
to
the
holders
of
Parity
Lien
Obligations
for
whom
it
acts,
without
being
required
to
determine
the
authenticity
thereof
or
the
correctness
of
any
fact
stated
therein
or
the
propriety
or
validity
of

service
thereof.
The
Collateral
Trustee
may
act
in
reliance
upon
any
instrument
comporting
with
the
provisions
of
this
Agreement
or
any
signature
believed
by
it
in
good
faith
to
be
genuine
and
may
assume
that
any
Person
purporting
to
give
notice
or
receipt
or
advice
or
make
any
statement
or

execute
any
document
in
connection
with
the
provisions
hereof
or
the
other
Parity
Lien
Security
Documents
has
been
duly
authorized
to
do
so.
To
the
extent
an
Officers'
Certificate
or
opinion
of
counsel
is
required
or
permitted
under
this
Agreement
to
be
delivered
to
the
Collateral
Trustee
in
respect
of

any
matter,
the
Collateral
Trustee
may
rely
conclusively
on
an
Officers'
Certificate
or
opinion
of
counsel
as
to
such
matter
and
such
Officers'
Certificate
or
opinion
of
counsel
shall
be
full
warranty
and
protection
to
the
Collateral
Trustee
for
any
action
taken,
suffered
or
omitted
by
it
under
the
provisions

of
this
Agreement
and
the
other
Parity
Lien
Security
Documents.
The
Collateral
Trustee
(a)
shall
not
be
responsible
to
any
Parity
Lien
Secured
Party
for
any
recitals,
statements,
information,
representations
or
warranties
of
any
other
Person
contained
herein,
in
the
Parity
Lien
Documents
or
in
any
document,
certificate
or
other

writing
delivered
in
connection
herewith
or
therewith
or
for
the
execution,
effectiveness,
genuineness,
validity,
enforceability,
collectability,
priority
of
sufficiency
of
this
Agreement
by
or
against
any
other
Person,
the
Parity
Lien
Documents
or
the
financial
condition
of
the
Company,
the
other
Obligors
or
any
of
them
and
(b)
shall
not

be
required
to
ascertain
or
inquire
as
to
the
performance
or
observation
of
any
of
the
terms,
covenants
or
conditions
of
this
Agreement
or
any
Parity
Lien
Document.

Section 6.8

Parity
Lien
Debt
Default.
The
Collateral
Trustee
will
not
be
required
to
inquire
as
to
the
occurrence
or
absence
of

any
Parity
Lien
Debt
Default
and
will
not
be
affected
by
or
required
to
act
upon
any
notice
or
knowledge
as
to
the
occurrence
of
any
Parity
Lien
Debt
Default
unless
and
until
it
is
directed
by
an
Act
of
Parity
Lien
Debtholders.

Section 6.9

Actions
by
Collateral
Trustee.
As

to
any
matter
not
expressly
provided
for
by
this
Agreement
or
the
other
Parity
Lien
Security
Documents,
the
Collateral
Trustee
will
act
or
refrain
from
acting
as
directed
by
an
Act
of
Parity
Lien
Debtholders
in
accordance
with
this
Agreement
and
will
be
fully
protected
if
it
does
so,
and

any
action
taken,
suffered
or
omitted
pursuant
to
hereto
or
thereto
shall
be
binding
on
the
holders
of
Parity
Lien
Obligations.

Section 6.10

Anti-
Marshaling.
The
Collateral
Trustee
shall
not
be
required
to
marshal
any
present
or
future
collateral
security
for
any
obligations
of
any
Obligor
to
any
Parity
Lien

Secured
Party
under
the
Parity
Lien
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 6.11

Security
or
Indemnity
in
favor
of
the
Collateral
Trustee.
The
Collateral
Trustee
will
not
be
required
to
advance
or
expend
any
funds
or
otherwise
incur
any

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financial
liability
in
the
performance
of
its
duties
or
the
exercise
of
its
powers
or
rights
hereunder
unless
it
has
been
provided
with
security
or
indemnity
reasonably
satisfactory
to
it
against
any
and
all
liability
or
expense
which
may
be
incurred
by
it
by
reason
of
taking
or
continuing
to

take
such
action.

Section 6.12

Rights
of
the
Collateral
Trustee.
In
the
event
of
any
conflict
between
any
terms
and
provisions
set
forth
in
this
Agreement
and
those
set
forth
in
any
other
Parity
Lien
Security
Document,
the
terms
and
provisions
of
this
Agreement
shall
supersede
and
control
the
terms

and
provisions
of
such
other
Parity
Lien
Security
Document.
In
the
event
there
is
any
bona
fide,
good
faith
disagreement
between
the
other
parties
to
this
Agreement
or
any
of
the
other
Parity
Lien
Security
Documents
resulting
in
adverse
claims
being
made
in
connection
with
Collateral
held
by
the
Collateral

Trustee
and
the
terms
of
this
Agreement
or
any
of
the
other
Parity
Lien
Security
Documents
do
not
unambiguously
mandate
the
action
the
Collateral
Trustee
is
to
take
or
not
to
take
in
connection
therewith
under
the
circumstances
then
existing,
or
the
Collateral
Trustee
is
in
doubt
as
to
what

action
it
is
required
to
take
or
not
to
take
hereunder
or
under
the
other
Parity
Lien
Security
Documents,
it
will
be
entitled
to
refrain
from
taking
any
action
(and
will
incur
no
liability
for
doing
so)
until
directed
otherwise
in
writing
by
an
Act
of
Parity
Lien
Debtholders
or

by
order
of
a
court
of
competent
jurisdiction.

Section 6.13

Limitations
on
Duty
of
Collateral
Trustee
in
Respect
of
Collateral.

(a)

Beyond
the
exercise
of
reasonable
care
in
the
custody
of
Collateral
in
its
possession,
the
Collateral
Trustee
will
have
no
duty
as
to
any
Collateral
in
its
possession
or

control
or
in
the
possession
or
control
of
any
agent
or
bailee
reasonably
selected
by
it
in
good
faith
or
any
income
thereon
or
as
to
preservation
of
rights
against
prior
parties
or
any
other
rights
pertaining
thereto
and
the
Collateral
Trustee
will
not
be
responsible
for
filing
any
financing

or
continuation
statements
or
recording
any
documents
or
instruments
in
any
public
office
at
any
time
or
times
or
otherwise
perfecting
or
maintaining
the
perfection
of
any
Liens
on
the
Collateral.
The
Collateral
Trustee
shall
deliver
to
each
other
Parity
Lien
Representative
a
copy
of
any
such
written
request.
The

Collateral
Trustee
will
be
deemed
to
have
exercised
reasonable
care
in
the
custody
of
the
Collateral
in
its
possession
if
the
Collateral
is
accorded
treatment
substantially
equal
to
that
which
it
accords
its
own
property,
and
the
Collateral
Trustee
will
not
be
liable
or
responsible
for
any
loss
or
diminution

in
the
value
of
any
of
the
Collateral
by
reason
of
the
act
or
omission
of
any
carrier,
forwarding
agency
or
other
agent
or
bailee
reasonably
selected
by
the
Collateral
Trustee
in
good
faith.

(b)
Except
as
provided
in
Section
6.13(a),
the
Collateral
Trustee
will
not
be
responsible
for

the
existence,
genuineness
or
value
of
any
of
the
Collateral
or
for
the
validity,
perfection,
priority
or
enforceability
of
the
Liens
in
any
of
the
Collateral,
for
the
validity
or
sufficiency
of
the
Collateral
or
any
agreement
or
assignment
contained
therein,
for
the
validity
of
the
title
of
the
Company

to
the
Collateral,
for
insuring
the
Collateral
or
for
the
payment
of
taxes,
charges,
assessments
or
Liens
upon
the
Collateral
or
otherwise
as
to
the
maintenance
of
the
Collateral.
The
Collateral
Trustee
hereby
disclaims
any
representation
or
warranty
to
the
current
and
future
holders
of
the
Parity
Lien
Obligations
concerning

the
perfection
of
the
security
interests
granted
to
it
or
in
the
value
of
any
Collateral.
The
Collateral
Trustee
shall
not
be
under
any
obligation
to
the
Bond
Trustee
or

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any
holder
of
Parity
Lien
Debt
to
ascertain
or
to
inquire
as
to

the
observance
or
performance
of
any
of
the
agreements
contained
in,
or
conditions
of,
this
Agreement
or
any
other
Parity
Lien
Security
Document
or
to
inspect
the
properties,
books
or
records
of
the
Company.

Section 6.14

Assumption
of
Rights.
Not
Assumption
of
Duties.
Notwithstanding
anything
to
the
contrary
contained
herein:

(a)
each
of
the
parties
thereto
will
remain
liable
under
each
of
the
Parity
Lien
Security
Documents
(other
than
this
Agreement)
to
the
extent
set
forth
therein
to
perform
all
of
their
respective
duties
and
obligations
thereunder
to
the
same
extent
as
if
this
Agreement
had
not
been
executed;

(b)
the
exercise
by
the
Collateral
Trustee
of
any
of
its
rights,
remedies
or
powers
hereunder
will
not
release
such
parties
from
any
of
their
respective
duties
or
obligations
under
the
other
Parity
Lien
Security
Documents;
and

(c)
the
Collateral
Trustee
will
not
be
obligated
to
perform
any
of

the
obligations
or
duties
of
the
Company.

Section 6.15

No
Liability
for
Clean
Up
of
Hazardous
Materials.
In
the
event
that
the
Collateral
Trustee
is
required
to
acquire
title
to
an
asset
for
any
reason,
or
take
any
managerial
action
of
any
kind
in
regard
thereto,
in
order
to
carry

out
any
fiduciary
or
trust
obligation
for
the
benefit
of
another,
which
in
the
Collateral
Trustee's
sole
discretion
may
cause
the
Collateral
Trustee
to
be
considered
an
"owner
or
operator"
under
any
environmental
laws
or
otherwise
cause
the
Collateral
Trustee
to
incur,
or
be
exposed
to,
any
environmental
liability
or

any
liability
under
any
other
federal,
state
or
local
law,
the
Collateral
Trustee
reserves
the
right,
instead
of
taking
such
action,
either
to
resign
as
Collateral
Trustee
or
to
arrange
for
the
transfer
of
the
title
or
control
of
the
asset
to
a
court
appointed
receiver.
The
Collateral
Trustee
will

not
be
liable
to
any
Person
for
any
environmental
liability
or
any
environmental
claims
or
contribution
actions
under
any
federal,
state
or
local
law,
rule
or
regulation
by
reason
of
the
Collateral
Trustee's
actions
and
conduct
as
authorized,
empowered
and
directed
hereunder
or
relating
to
any
kind
of
discharge
or

release
or
threatened
discharge
or
release
of
any
hazardous
materials
into
the
environment.

Section 6.16

Other
Relationships
with
the
Obligors.
Wilmington
Trust,
National
Association
and
its
Affiliates
(and
any
successor
Collateral
Trustee
and
its
Affiliates)
may
make
loans
to,
issue
letters
of
credit
for
the
account
of,
accept
deposits
from,

acquire
equity
interests
in
and
generally
engage
in
any
kind
of
banking,
trust,
financial
advisory,
underwriting
or
other
business
with
the
Company
and
its
Affiliates
as
though
it
was
not
the
Collateral
Trustee
hereunder
and
without
notice
to
or
consent
of
the
Bond
Trustee
or
any
holder
of
Parity
Lien

Obligations.
The
Bond
Trustee
and
the
holders
of
the
Parity
Lien
Obligations
acknowledge
that,
pursuant
to
such
activities,
Wilmington
Trust,
National
Association
or
its
Affiliates
(and
any
successor
Collateral
Trustee
and
its
Affiliates)
may
receive
information
regarding
the
Company
or
its
Affiliates
(including
information
that
may
be
subject
to
confidentiality

obligations
in
favor
of
such
Obligor
or
such
Affiliate)
and
acknowledge
that
the
Collateral
Trustee
shall
not
be
under
any
obligation
to
provide
such
information
to
the
Bond
Trustee
or
the
holders
of
the
Parity
Lien
Obligations.
Nothing
herein
shall
impose
or
imply
any
obligation
on
the
part
of
Wilmington

Trust,
National
Association
(or
any
successor
Collateral
Trustee)
to
advance
funds.

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ARTICLE 7

RESIGNATION AND REMOVAL OF THE COLLATERAL TRUSTEE

Section 7.1

Resignation
or
Removal
of
Collateral
Trustee.

Subject
to
the
appointment
of
a
successor
Collateral
Trustee
as
provided
in
Section
7.2
and
the

acceptance
of
such
appointment
by
the
successor
Collateral
Trustee.

(a)

the
Collateral
Trustee
may
resign
at
any
time
by
giving
not
less
than
30
days'
prior
written
notice
of
resignation
to
each
Parity
Lien
Representative
and
the
Company;
and

(b)

the
Collateral
Trustee
may
be
removed
at
any
time,

with
or
without
cause,
by
an
Act
of
Parity
Lien
Debtholders
by
giving
not
less
than
30
days'
prior
written
notice
to
the
Collateral
Trustee.

Section 7.2

Appointment
of
Successor
Collateral
Trustee.
Upon
any
such
resignation
or
removal,
a
successor
Collateral
Trustee
may
be
appointed
by
an
Act
of
Parity

Lien
Debtholders.
If
no
successor
Collateral
Trustee
has
been
so
appointed
and
accepted
such
appointment
within
30
days
after
the
predecessor
Collateral
Trustee
gave
notice
of
resignation
or
was
removed,
the
retiring
Collateral
Trustee
may
(at
the
expense
of
the
Company),
at
its
option,
appoint
a
successor
Collateral
Trustee,
or

petition
a
court
of
competent
jurisdiction
for
appointment
of
a
successor
Collateral
Trustee,
which
must
be
a
bank
or
trust
company:

(a)

authorized
to
exercise
corporate
trust
powers;
and

(b)

having
a
combined
capital
and
surplus
of
at
least
\$250,000,000.

The
Collateral
Trustee
will
fulfill
its
obligations
hereunder

until
a
successor
Collateral
Trustee
meeting
the
requirements
of
this
Section
7.2
has
accepted
its
appointment
as
Collateral
Trustee
and
the
provisions
of
Section
7.3
have
been
satisfied.

Section 7.3

Succession.
When
the
Person
so
appointed
as
successor
Collateral
Trustee
accepts
such
appointment:

(a)

such
Person
will
succeed
to
and

become
vested
with
all
the
rights,
powers,
privileges
and
duties
of
the
predecessor
Collateral
Trustee,
and
the
predecessor
Collateral
Trustee
will
be
discharged
from
its
duties
and
obligations
hereunder;

(b)

such
Person
will
send
notice
to
the
Bond
Trustee
and
any
other
Parity
Lien
Representative
of
its
acceptance
of

the
appointment
as
successor
Collateral
Trustee
and
will
agree
in
such
notice
to
assume
the
obligations
of
the
Collateral
Trustee
under
this
Agreement;
and

(c)
the
predecessor
Collateral
Trustee
will
(at
the
expense
of
the
Company)
promptly
transfer
all
Liens
and
collateral
security
and
other
property
of
the
Trust

Estate
within
its
possession
or
control
to
the
possession
or
control
of
the
successor
Collateral
Trustee
and
will
execute
instruments
and
assignments
as
may
be
necessary
or
desirable
or

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▪

reasonably
requested
by
the
successor
Collateral
Trustee
to
transfer
to
the
successor
Collateral
Trustee

all
Liens,
interests,
rights,
powers
and
remedies
of
the
predecessor
Collateral
Trustee
in
respect
of
the
Parity
Lien
Security
Documents
or
the
Trust
Estate.

Thereafter
the
predecessor
Collateral
Trustee
will
remain
entitled
to
enforce
the
immunities
granted
to
it
in
Article
6
and
the
provisions
of
Section
8.9
and

Section
8.10.
and
said
provisions
will
survive
termination
of
this
Agreement
for
the
benefit
of
the
predecessor
of
the
Collateral
Trustee.

Section 7.4

Merger.
Conversion
or
Consolidation
of
Collateral
Trustee.
Any
Person
into
which
the
Collateral
Trustee
may
be
merged
or
converted
or
with
which
it
may
be
consolidated,
or

any
Person
resulting
from
any
merger,
conversion
or
consolidation
to
which
the
Collateral
Trustee
shall
be
a
party,
or
any
Person
succeeding
to
the
business
of
the
Collateral
Trustee
shall
be
the
successor
of
the
Collateral
Trustee
pursuant
to
Section
7.3,
provided
that
(i)
without
the
execution
or
filing
of

any
paper
with
any
party
hereto
or
any
further
act
on
the
part
of
any
of
the
parties
hereto,
except
where
an
instrument
of
transfer
or
assignment
is
required
by
law
to
effect
such
succession,
anything
herein
to
the
contrary
notwithstanding,
such
Person
satisfies
the
eligibility
requirements
specified
in
clauses

(a)
and
(b)
of
Section
7.2
and
(ii)
prior
to
any
such
merger,
conversion
or
consolidation,
the
Collateral
Trustee
shall
have
notified
the
Company
and
each
Parity
Lien
Representative
thereof
in
writing.

Section 7.5

Concerning
the
Collateral
Trustee
and
the
Parity
Lien
Representatives.

|

(a)
Notwithstanding
anything
contained
herein
to

the
contrary,
it
is
expressly
understood
and
agreed
by
the
parties
hereto
that,
other
than
any
holder
of
Parity
Lien
Debt
that
is
expressly
a
party
remain hereto
in
its
individual
capacity,
this
Agreement
has
been
signed
by
each
Parity
Lien
Representative
not
in
its
individual
capacity
or
personally
but
solely

in
its
capacity
as
trustee,
representative
or
agent
for
the
benefit
of
the
related
holders
of
the
applicable
Series
of
Parity
Lien
Debt
in
the
exercise
of
the
powers
and
authority
conferred
and
vested
in
it
under
the
related
Parity
Lien
Documents,
and
in
no
event
shall
such
Parity
Lien

Representative,
in
its
individual
capacity,
have
any
liability
for
the
representations,
warranties,
covenants,
agreements
or
other
obligations
of
any
other
party
under
this
Agreement,
any
Parity
Lien
Document
or
in
any
of
the
certificates,
reports,
documents,
data
notices
or
agreements
delivered
by
such
other
party
pursuant
hereto
or
thereto.

(b)
Notwithstanding
anything
contained
herein
to
the
contrary,
it
is
expressly
understood
and
agreed
by
the
parties
hereto
that
this
Agreement
has
been
signed
by
Wilmington
Trust,
National
Association,
not
in
its
individual
capacity
or
personally
but
solely
in
its
capacities
as
Collateral
Trustee
and
Trustee,
and
in
no
event

shall
Wilmington
Trust,
National
Association,
in
its
individual
capacity,
have
any
liability
for
the
representations,
warranties,
covenants,
agreements
or
other
obligations
of
any
other
party
under
this
Agreement,
any
Parity
Lien
Document
or
in
any
of
the
certificates,
reports,
documents,
data
notices
or
agreements
delivered
by
such
other
party
pursuant

hereto
or
thereto.

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▪

(c)

In
entering
into
this
Agreement,
the
Collateral
Trustee
shall
be
entitled
to
the
benefit
of
every
provision
of
the
Indenture
relating
to
the
rights,
exculpations
or
conduct
of,
affecting
the
liability
of
or
otherwise
affording
protection
to
the
“Collateral

Trustee”
thereunder.
In
no
event
will
the
Collateral
Trustee
be
liable
for
any
act
or
omission
on
the
part
of
the
Obligors
or
any
Parity
Lien
Representative.

(d)
Except
as
otherwise
set
forth
herein,
neither
the
Collateral
Trustee
nor
any
Parity
Lien
Representative
shall
be
required
to
exercise
any

discretion
or
take
any
action,
but
shall
be
required
to
act
or
refrain
from
acting
(and
shall
be
fully
protected
in
so
acting
or
refraining
from
acting)
solely
upon
the
instructions
of
the
applicable
Required
Parity
Lien
Debtholders
as
provided
in
this
Agreement
or
the
related
Parity
Lien
Document;
provided

that
neither
the
Collateral
Trustee
nor
any
Parity
Lien
Representative
shall
be
required
to
take
any
action
that
(i)
it
in
good
faith
believes
exposes
it
to
personal
liability
unless
it
receives
an
indemnification
satisfactory
to
it
from
the
applicable
holders
of
the
Parity
Lien
Obligations
with
respect
to
such

action
or
(ii)
is
contrary
to
this
Agreement
or
applicable
law.

ARTICLE 8

MISCELLANEOUS

Section 8.1

Amendment.

(a)

This
Agreement
and
any
other
Parity
Lien
Security
Document
may
be
amended,
waived
or
supplemented
only
by
writing
executed
by
the
applicable
Obligor,
the
Collateral
Trustee,
and
each
Parity
Lien
Representative,
provided

that,
any
amendment,
waiver
or
supplement
that
has
the
effect
solely
of:

(i)
adding
or
maintaining
Collateral,
securing
additional
Parity
Lien
Debt
that
was
otherwise
permitted
by
the
terms
of
each
Parity
Lien
Document
to
be
secured
by
the
Collateral
or
preserving,
perfecting
or
establishing
the
Liens
thereon
or

the
rights
of
the
Collateral
Trustee
therein,
or

(ii)
providing
for
the
assumption
of
the
Company's
obligations
under
any
Parity
Lien
Document
in
the
case
of
a
merger
or
consolidation
or
sale
of
all
or
substantially
all
of
the
properties
or
assets
of
such
Obligor
to
the
extent
permitted

by
the
terms
of
each
Parity
Lien
Document;

will
become
effective
when
executed
and
delivered
by
the
applicable
Obligor
party
thereto
and,
if
required
for
effectiveness
pursuant
to
its
terms,
the
Collateral
Trustee.

(b)
The
Collateral
Trustee
will
not
enter
into
any
amendment,
waiver
or
supplement
of
any
Parity

Lien
Security
Document
unless
it
has
received
an
Officers'
Certificate
to
the
effect
that
such
amendment,
waiver
or
supplement
will
not
result
in
a
breach
of
any
provision
or
covenant
contained
in
this
Agreement
or
any
of
the
Parity
Lien
Documents.
Prior
to
executing
any
amendment,
waiver
or
supplement
pursuant

to
this
Section
8.1,
the
Collateral
Trustee
will
be
entitled
to
receive
an
opinion
of
counsel
of
the
Company
to
the
effect
that
the
execution
of
such
document
is
authorized
or
permitted

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▪

hereunder,
and
with
respect
to
amendments
adding
Collateral,
an
opinion
of

counsel
of
the
Company
addressing
customary
creation
and
perfection
(which
opinion
may
be
subject
to
customary
assumptions,
qualifications
and
exceptions).

Section 8.2

Voting.
In
connection
with
any
matter
under
this
Agreement
requiring
a
vote
of
holders
of
Parity
Lien
Debt,
each
Series
of
Parity
Lien
Debt
will
cast
its
votes

in
accordance
with
the
Parity
Lien
Documents
governing
such
Series
of
Parity
Lien
Debt.
The
amount
of
Parity
Lien
Debt
to
be
voted
by
a
Series
of
Parity
Lien
Debt
will
equal
the
aggregate
principal
amount
and
related
accrued
interest
of
Parity
Lien
Debt
under
that
Series
of
Parity
Lien

Debt
then
outstanding
as
a
block
in
respect
of
any
vote
under
this
Agreement.
In
connection
with
this
Section
8.2,
the
Collateral
Trustee
may
conclusively
rely
upon
information
supplied
by
the
relevant
Parity
Lien
Representative
as
to
the
amounts
of
Parity
Lien
Debt
held
by
each
Series
of
Parity

Lien

Debt.

Section 8.3

Further

Assurances.

(a)

Each

of

the

Obligors

will

do

or

cause

to

be

done

all

acts

and

things

that

may

be

reasonably

necessary,

or

that

the

Collateral

Trustee

from

time

to

time

may

reasonably

request,

to

assure

and

confirm

that

the

Collateral

Trustee

holds,

for

the

benefit
of
the
holders
of
Parity
Lien
Obligations,
duly
created
and
enforceable
and
perfected
Liens
upon
the
Collateral
(including
any
property
or
assets
that
are
acquired
or
otherwise
become,
or
are
required
by
any
Parity
Lien
Document
to
become,
Collateral
after
the
date
hereof),
in
each
case,
as
contemplated
by.

and
with
the
Lien
priority
required
under,
the
Parity
Lien
Documents
and
in
connection
with
any
merger,
consolidation
or
sale
of
assets
of
the
Company,
the
property
and
assets
of
the
Person
which
is
consolidated
or
merged
with
or
into
the
Company,
to
the
extent
that
they
are
property
or

assets
of
the
types
which
would
constitute
Collateral
under
the
security
documents,
shall
be
treated
as
after-
acquired
property
and
such
Obligor
shall
take
such
action
as
may
be
reasonably
necessary
to
cause
such
property
and
assets
to
be
made
subject
to
the
Parity
Liens,
in
the
manner
and
to

the
extent
required
under
the
Parity
Lien
Documents.

(b)

Upon
the
reasonable
request
of
any
Parity
Lien
Representative
at
any
time
and
from
time
to
time,
each
of
the
Obligors
will
promptly,
at
its
sole
expense,
execute,
acknowledge
and
deliver
such
security
documents,
instruments,
certificates,
notices
and
other
documents,

and
take
such
other
actions
as
may
be
reasonably
necessary,
or
that
any
Parity
Lien
Representative
may
reasonably
request,
to
create,
perfect,
protect,
assure
or
enforce
the
Liens
and
benefits
intended
to
be
conferred,
in
each
case
as
contemplated
by
the
Parity
Lien
Documents
for
the
benefit
of
holders
of

Parity
Lien
Obligations;
provided
that
no
such
security
document,
instrument
or
other
document
shall
be
materially
more
burdensome
upon
the
Company
than
the
Parity
Lien
Documents
executed
and
delivered
(or
required
to
be
executed
and
delivered
promptly
after
the
date
hereof)
by
such
Obligor
in
connection
with
the
issuance
of

the
Bonds
on
or
about
the
date
hereof.

Section 8.4

Successors
and
Assigns.

|

(a)

Except
as
provided
in
Section
6.2
and
Article
Z,
the
Collateral
Trustee
may
not,
in
its
capacity
as
such,
delegate
any
of
its
duties
or
assign
any
of
its
rights
hereunder,

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and
any
attempted
delegation
or
assignment
of
any
such
duties
or
rights
will
be
null
and
void.
All
obligations
of
the
Collateral
Trustee
hereunder
will
inure
to
the
sole
and
exclusive
benefit
of,
and
be
enforceable
by,
each
Parity
Lien
Representative
and
each
present
and
future
holder

of
Parity
Lien
Obligations,
each
of
whom
will
be
entitled
to
enforce
this
Agreement
as
a
third-
party
beneficiary
hereof,
and
all
of
their
respective
successors
and
permitted
assigns.

(b)

No
Obligor
may
delegate
any
of
its
duties
or
assign
any
of
its
rights
hereunder,
and
any
attempted
delegation

or
assignment
of
any
such
duties
or
rights
will
be
null
and
void.
All
obligations
of
the
Obligors
hereunder
will
inure
to
the
sole
and
exclusive
benefit
of,
and
be
enforceable
by,
the
Collateral
Trustee,
each
Parity
Lien
Representative
and
each
present
and
future
holder
of
Parity
Lien
Obligations,
each

of
whom
will
be
entitled
to
enforce
this
Agreement
as
a
third-
party
beneficiary
hereof,
and
all
of
their
respective
successors
and
permitted
assigns.

Section 8.5

Delay
and
Waiver.

No
failure
to
exercise,
no
course
of
dealing
with
respect
to
the
exercise
of,
and
no
delay
in
exercising,
any
right,

power
or
remedy
arising
under
this
Agreement
or
any
of
the
other
Parity
Lien
Security
Documents
will
impair
any
such
right,
power
or
remedy
or
operate
as
a
waiver
thereof.
No
single
or
partial
exercise
of
any
such
right,
power
or
remedy
will
preclude
any
other
or
future
exercise
thereof

or
the
exercise
of
any
other
right,
power
or
remedy.
The
remedies
herein
are
cumulative
and
are
not
exclusive
of
any
remedies
provided
by
law.

Section 8.6

Continuing
Nature
of
this
Agreement.
If
any
Secured
Party
is
required
in
any
Insolvency
or
Liquidation
Proceeding
or
otherwise
to
turn
over
or

otherwise
pay
to
the
estate
of
the
Company
or
any
other
Obligor
for
any
reason,
including
without
limitation
because
it
was
found
to
be
a
fraudulent
or
preferential
transfer,
any
amount
paid
in
respect
of
the
Parity
Lien
Obligations
(a
"Recovery"),
whether
received
as
proceeds
of
security,
enforcement
of
any

right
of
set-
off
or
otherwise,
then
such
Parity
Lien
Obligations
shall
be
automatically
reinstated
with
respect
to
all
such
recovered
amounts.
In
such
event
(a)
the
Discharge
of
Parity
Lien
Obligations
shall
be
deemed
not
to
have
occurred
and
(b)
if
this
Agreement
shall
have
been
terminated
prior
to

such
Recovery,
this
Agreement
shall
be
reinstated
in
full
force
and
effect,
and
continue such
prior
termination
shall
not
diminish,
release,
discharge,
impair
or
otherwise
affect
the
obligations
of
the
parties
hereto
from
such
date
of
reinstatement.

Section 8.7

Notices.
Any
communications,
including
notices
and
instructions,
between
the
parties
hereto
or

notices
provided
herein
to
be
its
legal,
valid,
given
may
be
given
to
the
following
addresses:

If to the
Collateral
Trustee:

Wilmington Trust, National
Association

1 Light Street, 14th Floor
Baltimore, Maryland 21202

Attention: Joy Holloway

Phone: 804-754-4809

Email:

jeholloway@wilmingtontrust.com

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If to the
Company:

Montana Renewables, LLC

2780 Waterfront Pkwy. E. Dr., Suite 200
Indianapolis, IN 46214

Telephone: (317) 328-5660

Attention: Greg Morical

Email:

greg.morical@calumetspecialty.com

If to the
Administrative
Agent:

Delaware Trust Company

251 Little Falls Drive

Wilmington, DE 19808

Attention: Kelvin Vargas

Email: kelvin.vargas@delawaretrust.com;

loanagent@delawaretrustloanagency.com

and
binding
obligations
enforceable
in
accordance
with
their
terms
(as
the
same
are
modified, if
to
any
other
Parity
Lien
Representative,
to
such
address
as
applicable, it
may
specify
by
this
Second
Amendment).

IV. Miscellaneous.

(a) Form.

Each
agreement,
document,
instrument
or
other
writing
to
be
furnished
to
Macquarie
and
the
Company,
as

applicable,
under
any
provision
of
this
Second
Amendment
must
be
in
form
and
substance
satisfactory written
notice
to
the
parties
hereto named
above.

All
notices
and
their
counsel.

(b) Headings.

The
headings
and
captions
used communications
will
be
mailed
by
first
class
mail,
certified
or
registered,
return
receipt
requested,
by
overnight
courier
guaranteeing

next
day
delivery,
to
the
relevant
physical
address
set
forth
above
or,
as
to
holders
of
Parity
Lien
Debt,
its
physical
address
shown
on
the
register
kept
by
the
office
or
agency
where
the
relevant
Parity
Lien
Debt
may
be
presented
for
registration
of
transfer
or
for
exchange.
Failure
to

mail
a
notice
or
communication
to
a
holder
of
Parity
Lien
Debt
or
any
defect
in
this
Second
Amendment
are it
will
not
affect
its
sufficiency
with
respect
to
other
holders
of
Parity
Lien
Debt.
Copies
of
notices
may
for
convenience
only
and
will be
sent
via
email
to
the
email
addresses

specified
above
or,
as
to
holders
of
Parity
Lien
Debt,
to
any
email
address
shown
on
the
register
kept
by
the
office
or
agency
where
the
relevant
Parity
Lien
Debt
may
be
presented
for
registration
of
transfer
or
for
exchange,
but
such
email
deliver
shall
not
be
used
to
construe

the
meaning
or
intent
of
the
terms constitute
notice
for
purposes
of
this
Second
Amendment,
the
Supply
and
Offtake agreement.

Section 8.8

Entire
Agreement
or
the
other
Transaction
Documents.

(c) Successors

and
Permitted
Assigns.

This
Second
Amendment
is
binding
upon,
and
inures
to Agreement
states
the
benefit complete
agreement
of
the
parties
relating
to
this
Second
Amendment the
undertaking
of

the
Collateral
Trustee
set
forth
herein
and
their
respective
successors supersedes
all
oral
negotiations
and
permitted
assigns.
Unless
otherwise
provided prior
writings
in
respect
of
such
undertaking.

Section 8.9

Compensation;

Expenses.

The
Obligors
jointly
and
severally
agree
to
pay,
within
10
Business
Days
of
written
demand:

(a)

such
compensation
to
the
Collateral
Trustee
and
its
agents

as
the
Company
and
the
Collateral
Trustee
may
agree
in
writing
from
time
to
time;

(b)

all
reasonable
out-
of-
pocket
costs
and
expenses
incurred
by
the
Collateral
Trustee
and
its
agents
in
the
Transaction preparation,
execution,
delivery,
filing,
recordation,
administration
or
enforcement
of
this
Agreement
or
any
other
Parity

Lien
Security
Document
or
any
consent,
amendment,
waiver
or
other
modification
relating
hereto
or
thereto;

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▪

(c)
all
reasonable
fees,
expenses
and
disbursements
of
legal
counsel
and
any
auditors,
accountants,
consultants
or
appraisers
or
other
professional
advisors
and
agents
engaged
by
the
Collateral
Trustee

or
any
Parity
Lien
Representative
(other
than
any
holder
of
Parity
Lien
Debt
that
is
expressly
a
party
hereto
in
its
individual
capacity)
incurred
in
connection
with
the
negotiation,
preparation,
closing,
administration,
performance
or
enforcement
of
this
Agreement
and
the
other
Parity
Lien
Security
Documents
or
any
consent,
amendment,
waiver

or
other
modification
relating
hereto
or
thereto
and
any
other
document
or
matter
requested
by
the
Company;

(d)

all
covenants,
agreements,
indemnities,
representations reasonable
out-
of-
pocket
costs
and
warranties
made expenses
incurred
by
the
Collateral
Trustee
and
its
agents
in
creating,
perfecting,
preserving,
releasing
or
enforcing
the
Collateral
Trustee's
Liens

on
the
Collateral,
including
filing
and
recording
fees,
expenses
and
taxes,
stamp
or
documentary
taxes,
search
fees,
and
title
insurance
premiums;

(e)

all
other
reasonable
out-
of-
pocket
costs
and
expenses
incurred
by
the
Collateral
Trustee
and
its
agents
in
connection
with
the
negotiation,
preparation
and
execution
of
the

Parity
Lien
Security
Documents
and
any
consents,
amendments,
waivers
or
other
modifications
thereto
and
the
transactions
contemplated
thereby
or
the
exercise
of
rights
or
performance
of
obligations
by
the
Collateral
Trustee
thereunder;
and

(f)
after
the
occurrence
of
any
Parity
Lien
Debt
Default,
all
costs
and
expenses
incurred
by

the
Collateral
Trustee,
its
agents
and
any
Parity
Lien
Representative
(other
than
any
holder
of
Parity
Lien
Debt
that
is
expressly
a
party
hereto
in
its
individual
capacity)
in
connection
with
the
preservation,
collection,
foreclosure
or
enforcement
of
the
Collateral
subject
to
the
Parity
Lien
Security
Documents
or
any
interest,

right,
power
or
remedy
of
the
Collateral
Trustee
or
in
connection
with
the
collection
or
enforcement
of
any
of
the
Transaction
Documents
survive Parity
Lien
Obligations
or
the
proof,
protection,
administration
or
resolution
of
any
claim
based
upon
the
Parity
Lien
Obligations
in
any
Insolvency
or
Liquidation
Proceeding,
including
all
fees

and
continue disbursements
of
attorneys,
accountants,
auditors,
consultants,
appraisers
and
other
professionals
engaged
by
the
Collateral
Trustee,
its
agents
or
the
Parity
Lien
Representatives
(other
than
any
holder
of
Parity
Lien
Debt
that
is
expressly
a
party
hereto
in
effect
as
long
as
the
Transaction
Obligations
are
outstanding.
Nothing
expressed
or

implied its
individual
capacity).

The
agreements
in
this
Second
Amendment Section
8.9
will
survive
repayment
of
all
other
Parity
Lien
Obligations
and
the
removal
or
resignation
of
the
Collateral
Trustee
and
termination
of
this
Agreement.

Section 8.10

Indemnity.

(a)

The
Obligors
jointly
and
severally
agree
to
defend,
indemnify,
pay
and

hold
harmless
the
Collateral
Trustee,
each
Parity
Lien
Representative
(other
than
any
holder
of
Parity
Lien
Debt
that
is
intended
to
create
any
rights,
obligations
or
benefits
under
the
Supply expressly
a
party
hereto
in
its
individual
capacity)
and
Offtake
Agreement,
as
amended
hereby,
in
any
person
other
than
the
parties

thereto
and
hereto
and each
of
their
respective
Affiliates
and
each
and
all
of
their
directors,
officers,
partners,
trustees,
employees,
attorneys
and
agents,
and
(in
each
case)
their
respective
heirs,
representatives,
successors
and
permitted
assigns. assigns
(each
of
the
foregoing,
an
"Indemnatee")
from
and
against
any
and
all
Indemnified
Liabilities;
provided
that

no
Indemnitee
will
be
entitled
to
indemnification
hereunder
with
respect
to
any
Indemnified
Liability
to
the
extent
such
Indemnified

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*Invalidity. If
any Article,
Section or
provision of
this Second
Amendment
shall be
determined
to be null 59*

▪

Liability
is
found
by
a
final
and
void,
voidable
or
invalid
by nonappealable
decision
of
a

court
of
competent
jurisdiction
then
for to
have
resulted
from
the
gross
negligence
or
willful
misconduct
of
such
period Indemnatee.
THIS
INDEMNITY
COVERS
ORDINARY
NEGLIGENCE
OF
ANY
OF
THE
FOREGOING
PARTIES.

(b)
All
amounts
due
under
this
Section
8.10
will
be
payable
within
10
Business
Days
upon
written
demand.

(c)
To

the
extent
that
the
same undertakings
to
defend,
indemnify,
pay
and
hold
harmless
set
forth
in
Section
8.10(a),
may
be
unenforceable
in
whole
or
in
part
because
they
violate
any
law
or
public
policy,
each
of
the
Obligors
will
contribute
the
maximum
portion
that
it
is
void permitted
to
pay
and
satisfy

under
applicable
law
to
the
payment
and
satisfaction
of
all
Indemnified
Liabilities
incurred
by
Indemnitees
or
invalid,
it any
of
them.

(d)

No
claim
shall
be
deemed made
by
the
Company,
Holdings
or
any
of
their
Affiliates
against
the
Collateral
Trustee
or
the
other
Parity
Lien
Secured
Parties,
on
any
theory

of
liability,
for
any
lost
profits
or
special,
indirect
or
consequential
damages
or
(to
the
fullest
extent
a
claim
for
punitive
damages
may
lawfully
be
waived)
any
punitive
damages
arising
out
of,
in
connection
with,
or
as
a
result
of,
this
Agreement
or
any
other
Parity
Lien
Document
or
any

agreement
or
instrument
or
transaction
contemplated
hereby
or
relating
in
any
respect
to
any
Indemnified
Liability,
and
each
of
the
Company,
Holdings
and
their
Affiliates
hereto
hereby
forever
waives,
releases
and
agrees
not
to
sue
upon
any
claim
for
any
such
lost
profits
or
special,
indirect,
consequential
or
(to
the

fullest
extent
lawful)
punitive
damages,
whether
or
not
accrued
and
whether
or
not
known
or
suspected
to
exist
in
its
favor.

(e)

The
agreements
in
this
Section
8.10
will
survive
repayment
of
all
other
Parity
Lien
Obligations
and
the
removal
or
resignation
of
the
Collateral
Trustee
and
termination
of

this
Agreement.

Section 8.11

Severability.

If
any
provision
of
this
Agreement
is
invalid,
illegal
or
unenforceable
in
any
respect
or
in
any
jurisdiction,
the
validity,
legality
and
enforceability
of
such
provision
in
all
other
respects
and
of
all
remaining
provisions,
and
of
such
provision
in
all
other
jurisdictions,
will
not

in
any
way
be
affected
or
impaired
thereby.

Section 8.12

Headings.

Section
headings
herein
have
been
inserted
for
convenience
of
reference
only,
are
not
to
be

deleted
from
the
Supply considered

a
part
of
this
Agreement
and

Offtake
Agreement,

as
amended
hereby,
and
the
remaining
portions will

in
no
way
modify
or

restrict
any
of
the
Supply
and
Offtake
Agreement,
as
amended
hereby,
shall
remain
in
full
force
and
effect. terms
or
provisions
hereof.

(e) Section 8.13

Multiple
Counterparts
Obligations
Secured.
This
Second
Amendment
may All
obligations
of
the
Obligors
set
forth
in
or
arising
under
this
Agreement
will
be
executed
in
one
or
more

counterparts Parity

Lien

Obligations

and

are

secured

by

all

Liens

granted

by

the

parties

hereto

and

initially

delivered

by

facsimile

transmission,

pdf

or

otherwise,

with

original

signature

pages

to

follow,

and

all

such

counterparts

shall

together

constitute

one

and

the

same

instrument. Parity

Lien

Security

Documents.

(f) Section 8.14

GOVERNING

LAW

Governing

Law.
THIS
SECOND
AMENDMENT AGREEMENT
SHALL
BE
GOVERNED
BY
CONSTRUED
AND
ENFORCED
UNDER
THE
LAWS
OF
THE
STATE
OF
NEW
YORK
WITHOUT
GIVING
EFFECT
TO
ITS ANY
CONFLICT
OF
LAWS LAW
PRINCIPLES
THAT
WOULD
REQUIRE
THE
APPLICATION (BUT
GIVING
EFFECT
TO
SECTION
5-
1401
OF
THE
LAWS
OF
ANOTHER
STATE. NEW
YORK
GENERAL
OBLIGATION
LAW).

▪

Section 8.15

Consent
to
Jurisdiction.
All
judicial
proceedings
brought
against
any
party
hereto
arising
out
of
or
relating
to
this
Agreement
or
any
of
the
other
Parity
Lien
Security
Documents
may
be
brought
in
any
state
or
federal
court
of
competent
jurisdiction
in
the

State,
County
and
City
of
New
York.
By
executing
and
delivering
this
Agreement,
each
party
hereto
irrevocably:

(g) (a)

No
Waiver.
This
Second
Amendment
is submits,
for
itself
and
its
property,
to
the
nonexclusive
jurisdiction
of
the
Supreme
Court
of
the
State
of
New
York
sitting
in
New
York
County
and

of
the
United
States
District
Court
of
the
Southern
District
of
New
York,
and
any
appellate
court
from
any
thereof,
in
any
action
or
proceeding
arising
out
of
or
relating
to
this
Agreement,
or
for
recognition
or
enforcement
of
any
judgment,
and
each
of
the
parties
hereto
hereby
irrevocably
and

unconditionally
agrees
that
all
claims
in
respect
of
any
such
action
or
proceeding
may
be
heard
and
determined
in
such
New
York
State
court
or,
to
the
extent
permitted
by
law,
in
such
federal
court.
Each
of
the
parties
hereto
agrees
that
a
final
judgment
in
any
such
action
or

proceeding
shall
be
conclusive
and
may
be
enforced
in
other
jurisdictions
by
suit
on
the
judgment
or
in
any
other
manner
provided
by
law.
Nothing
in
this
Agreement
shall
affect
any
right
that
any
party
hereto
may
otherwise
have
to
bring
any
action
or
proceeding
relating
to
this
Agreement
in

the
courts
of
any
jurisdiction;
provided,
that
each
Obligor
irrevocably
and
unconditionally
agrees
that
it
will
not
intended commence
any
action,
litigation
or
proceeding
of
any
kind
or
description,
whether
in
law
or
equity,
whether
in
contract
or
in
tort
or
otherwise,
against
any
Parity
Lien
Secured
Party
or
any
Affiliate

of
any
Parity
Lien
Secured
Party
in
any
way
relating
to
operate
as
a
waiver
of
Macquarie's
rights
and
remedies
and
does
not
constitute
or
operate
as
(i)
a
waiver
of
(or
a
consent
to)
any
existing
Default
or
Event
of
Default,
if
any, this
Agreement
or
any
other
noncompliance
with Parity

Lien
Document
or
the
transactions
relating
hereto
or
thereto,
in
any
provision forum
other
than
the
courts
of
the
Supply Supreme
Court
of
the
State
of
New
York
sitting
in
New
York
County
and
Offtake of
the
United
States
District
Court
of
the
Southern
District
of
New
York,
and
any
appellate
court
from

any
thereof;

(b)
waives,
to
the
fullest
extent
it
may
legally
and
effectively
do
so,
any
objection
which
it
may
now
or
hereafter
have
to
the
laying
of
venue
of
any
suit,
action
or
proceeding
arising
out
of
or
relating
to
this
Agreement
in
any
court
referred
to
in

clause
(a)
above,
and
waives,
to
the
fullest
extent
permitted
by
law,
the
defense
of
an
inconvenient
forum
to
the
maintenance
of
such
action
or
proceeding
in
any
such
court;

(c)
agrees
that
service
of
all
process
in
any
such
proceeding
in
any
such
court
may
be
made
by

registered
or
certified
mail,
return
receipt
requested,
to
such
party
at
its
address
provided
in
accordance
with
Section
8.7:

(d)
agrees
that
service
as
amended
hereby,
or provided
in
clause
(c)
above
is
sufficient
to
confer
personal
jurisdiction
over
such
party
in
any
such
proceeding
in
any
such
court
and

otherwise
constitutes
effective
and
binding
service
in
every
respect;
and

(e)

agrees
each
party
hereto
retains
the
right
to
serve
process
in

any
other

Transaction
Document,

(ii)

an
agreement
to

waive

any
existing

or

future

Default

or

Event manner

permitted

by

law.

Section 8.16

Waiver

of

Default,

if

any,

or

any

such
noncompliance.
or
(iii).
a
waiver
of
Macquarie's
right
to
insist
upon
strict
compliance
with
each
term.
covenant.
condition
and
provision
of
the
Supply
and
Offtake
Agreement.
as
amended
hereby.
and
the
other
Transaction
Documents.

(h) FINAL
AGREEMENT Jury
Trial.
EACH
PARTY
TO
THIS
AGREEMENT
WAIVES
TO
THE
TERMS FULLEST
EXTENT
PERMITTED

BY
APPLICABLE
LAW
ITS
RIGHTS
TO
A
JURY
TRIAL
OF
ANY
CLAIM
OR
CAUSE
OF
ACTION
BASED
UPON
OR
ARISING

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.

UNDER
THIS
AGREEMENT
OR
ANY
OF
THE
OTHER
PARITY
LIEN
SECURITY
DOCUMENTS
OR
ANY
DEALINGS
BETWEEN
THEM
RELATING
TO
THE
SUBJECT
MATTER

OF
THIS
SECOND
AMENDMENT, AGREEMENT
OR
THE
SUPPLY INTENTS
AND
OFFTAKE PURPOSES
OF
THE
OTHER
PARITY
LIEN
SECURITY
DOCUMENTS.
THE
SCOPE
OF
THIS
WAIVER
IS
INTENDED
TO
BE
ALL-
ENCOMPASSING
OF
ANY
AND
ALL
DISPUTES
THAT
MAY
BE
FILED
IN
ANY
COURT
AND
THAT
RELATE
TO
THE
SUBJECT
MATTER
OF
THIS

AGREEMENT
AND
THE
OTHER
TRANSACTION PARITY
LIEN
SECURITY
DOCUMENTS,
CONSTITUTE
THE
ENTIRE INCLUDING
CONTRACT
CLAIMS,
TORT
CLAIMS,
BREACH
OF
DUTY
CLAIMS
AND
ALL
OTHER
COMMON
LAW
AND
STATUTORY
CLAIMS.
EACH
PARTY
TO
THIS
AGREEMENT
AMONG
THE
PARTIES ACKNOWLEDGES
THAT
THIS
WAIVER
IS
A
MATERIAL
INDUCEMENT
TO
ENTER
INTO
A
BUSINESS
RELATIONSHIP,

THAT
EACH
PARTY
HERETO
AND
THERETO
WITH
RESPECT
TO
THE
MATTERS
SET
FORTH
HEREIN
AND
THEREIN,
AND
NO
REPRESENTATIONS
OR
WARRANTIES
SHALL
BE
IMPLIED
OR
PROVISIONS
ADDED RELIED
ON
THIS
WAIVER
IN
THE
ABSENCE
OF
A
WRITTEN
AGREEMENT
TO
SUCH
EFFECT
BETWEEN
THE
PARTIES
HERETO
OR
THERETO, ENTERING
INTO
THIS

SECOND
AMENDMENT,
THE
SUPPLY
AND
OFFTAKE
AGREEMENT,
AND
THE
OTHER
TRANSACTION
DOCUMENTS THAT
EACH
PARTY
HERETO
WILL
CONTINUE
TO
RELY
ON
THIS
WAIVER
IN
ITS
RELATED
FUTURE
DEALINGS.
EACH
PARTY
HERETO
FURTHER
WARRANTS
AND
REPRESENTS
THAT
IT
HAS
REVIEWED
THIS
WAIVER
WITH
ITS
LEGAL
COUNSEL
AND
THAT
IT
KNOWINGLY

AND
VOLUNTARILY
WAIVES
ITS
JURY
TRIAL
RIGHTS
FOLLOWING
CONSULTATION
WITH
LEGAL
COUNSEL.
THIS
WAIVER
IS
IRREVOCABLE,
MEANING
THAT
IT
MAY
NOT
BE
CONTRADICTED MODIFIED
EITHER
ORALLY
OR
IN
WRITING
(OTHER
THAN
BY
EVIDENCE
OF
PRIOR,
CONTEMPORANEOUS,
OR
SUBSEQUENT
ORAL
AGREEMENTS)A
MUTUAL
WRITTEN
WAIVER
SPECIFICALLY
REFERRING
TO
THIS
Section
8.16

AND
EXECUTED
BY
EACH
OF
THE
PARTIES.
THERE
ARE
NO
UNWRITTEN
ORAL PARTIES
HERETO),
AND
THIS
WAIVER
WILL
APPLY
TO
ANY
SUBSEQUENT
AMENDMENTS,
RENEWALS,
SUPPLEMENTS
OR
MODIFICATIONS
OF
OR
TO
THIS
AGREEMENT
OR
ANY
OF
THE
OTHER
PARITY
LIEN
SECURITY
DOCUMENTS
OR
TO
ANY
OTHER
DOCUMENTS
OR
AGREEMENTS
BETWEEN RELATING

THERE TO.
IN
THE
PARTIES.
No
promise,
representation EVENT
OF
LITIGATION,
THIS
AGREEMENT
MAY
BE
FILED
AS
A
WRITTEN
CONSENT
TO
A
TRIAL
BY
THE
COURT.

Section 8.17

Counterparts.
Electronic
Signatures.
This
Agreement
may
be
executed
in
any
number
of
counterparts
(including
by
facsimile),
each
of
which
when
so
executed
and

delivered
will
be
deemed
an
original,
but
all
such
counterparts
together
will
constitute
but
one
and
the
same
instrument.
The
parties
hereto
may
sign
this
Agreement
and
any
joinder,
certificate
or
inducement
has
been
made
other
deliverable
hereunder
and
transmit
the
executed
copy
by
electronic
means,
including
facsimile
or
*.pdf

files.
The
electronic
copy
of
the
executed
Agreement
and
any
such
joinder,
certificate
or
other
deliverable
hereunder
is
and
shall
be
deemed
an
original
signature.
The
words
"execution,"
"signed,"
"signature,"
and
words
of
like
import
in
shall
be
deemed
to
include
electronic
signatures
or
the
keeping
of
records
in
electronic

form,
each
of
which
shall
be
of
the
same
legal
effect,
validity
or
enforceability
as
a
manually
executed
signature
or
the
use
of
a
paper-
based
recordkeeping
system,
as
the
case
may
be,
to
the
extent
and
as
provided
for
in
any
applicable
law,
including
the
Federal
Electronic
Signatures
in

*Global
and
National
Commerce
Act,
the
New
York
State
Electronic
Signatures
and
Records
Act,
or
any
other
similar
state
laws
based
on
the
Uniform
Electronic
Transactions
Act.*

Section 8.18

Effectiveness.

*This
Agreement
will
become
effective
upon
the
execution
of
a
counterpart
hereof
by
each
of
the
parties
hereto
and
written*

or
telephonic
authorization
of
delivery
thereof.

Section 8.19

Obligors
and
Additional
Obligors.
The
Company
will
cause
each
Person
that
hereafter
becomes
a
Guarantor
(as
defined
in
the
Loan
Agreement),
or
that
is
required

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▪

by
any
Parity
Lien
Document
to
become
a
party

hereto
or
thereto
that
is
not
embodied
in to
this
Agreement,
to
become
a
party
to
this
Agreement
for
all
purposes
of
this
Agreement,
by
causing
such
Person
to
execute
and
deliver
to
the
Supply
and
Offtake
Agreement,
as
amended
by
this
Second
Amendment,
or
the
other
Transaction
Documents,

and
no
party
hereto
or
thereto
shall Collateral
Trustee
a
Collateral
Trust
Joinder,
whereupon
such
Person
will
be
bound
by
or
liable
for
any
alleged
representation,
promise
or
inducement
not
so
set
forth
herein
or
therein.

[Signatures
on
Following
Pages.]

IN
WITNESS
WHEREOF, the
terms
hereof
to

the
same
extent
as
if
it
had
executed
and
delivered
this
Second
Amendment
is
executed
effective
as
of
the
Second
Amendment
Closing
Date.

MACQUARIE
ENERGY
NORTH
AMERICA
TRADING
INC.

By:
/s/
Ozzie
Pagan
Name:
Ozzie
Pagan
Title:
Executive
Director

By:
/s/
Tara
Teeter
Name:
Tara
Teeter

Title:
Division
Director

MONTANA
RENEWABLES,
LLC

By:
/s/
Vincent
Donargo
Vincent
Donargo
Executive
Vice
President
and
Chief
Financial
Officer

Signature
Page
to
SecExhibit
10.2ndment
to
Supply
and CALUMET
SPECIALTY
PRODUCTS
PARTNERS,
L.P.
CHANGE
OF
CONTROL
PROTECTION
PLAN
Section
1.
Purpose.

The
purpose
of
this
Calumet
Specialty

Products
Partners,
L.P.
Change
of
Control
Protection
Plan,
effective
as
of
March
13,
2023,
is
to
provide
assurances
of
specified
benefits
to
eligible
employees
of
the
Employer
whose
employment
is
terminated
in
a
Qualifying
Termination
in
connection
with
a
Change
of
Control.
This
Plan
is
intended
to
be
an
"employee

welfare
benefit
plan”
within
the
meaning
of
Section
3(1)
of
ERISA
and
is
maintained
as
an
unfunded
plan
for
the
purpose
of
providing
benefits
to
a
select
group
of
management
or
highly
compensated
employees
within
the
meaning
of
29
C.F.R.
§
2520.104-
24.

Section
2.
Definitions.

a) “Accrued
Obligations”

means
(i)
all
earned
but
unpaid
Base
Pay
through
the
date
of
termination
prorated
for
any
partial
period
of
employment,
payable
in
accordance
with
customary
payroll
practices
and
the
requirements
of
applicable
law;
(ii)
any
benefits
to
which
such
individual
has
a
vested
entitlement
as
of
the
date
hereof.
The

Company
shall
promptly
provide
each
Parity
Lien
Representative
with
a
copy
of
termination,
payable
in
accordance
with each
Collateral
Trust
Joinder
executed
and
delivered
pursuant
to
this
Section
8.19;
provided
that
the
terms failure
to
so
deliver
a
copy
of
the
Collateral
Trust
Joinder
to
any
than
existing
Parity
Lien
Representative
shall

not
affect
the
inclusion
of
such
Person
as
an
Obligor
if
the
other
requirements
of
this
Section
8.19
are
complied
with.

Section 8.20

Insolvency.

(a)

This
Agreement
will
be
applicable
both
before
and
after
the
commencement
of
any
applicable
benefit
plan Insolvency
or
Liquidation
Proceeding.
The
relative
rights,
as
otherwise

required
by
law;
(iii) provided
for
in
this
Agreement,
will
continue
after
the
commencement
of
any
accrued
but
unused
vacation,
payable
in
a
lump
sum
with such
Insolvency
or
Liquidation
Proceeding
on
the
individual's
final
paycheck
or same
basis
as
otherwise
required
by
law;
and
(iv)
any
approved
but
not
yet
reimbursed
business

expenses
incurred
prior
to
the
date
of
termination,
payable the
commencement
of
any
such
case,
as
provided
in
accordance
with
applicable
policies this
Agreement.

(b)
Each
of
the
Employer.

b) "Act"
means
the
Securities
Exchange
Act holders
of
1934, Bonds,
holders
of
Term
Loans,
and
holders
of
any
other
Parity
Lien
Debt
shall

be
entitled
to
vote
as
amended.

c) **“Affiliate”**

means, separate
classes
with
respect
to
any
Person,
any
other
Person
that Plan
of
Reorganization
and
no
such
holder,
the
Bond
Trustee,
the
Administrative
Agent
or
the
Collateral
Trustee
may
propose,
vote
in
favor
of,
or
otherwise
directly
or
indirectly
through
one
or
more

intermediaries
controls, support
any
Plan
of
Reorganization
that
is
controlled
by
or
is
under
common
control inconsistent
with
the
Person priorities
or
other
provisions
of
this
Agreement.

(c)

If
in
question.
As
used
herein,
the
term
"control"
means
the
possession,
direct any
Insolvency
or
indirect, Liquidation
Proceeding,
debt
obligations
of
the
power
to
direct

or
cause
the
direction reorganized
debtor
secured
by
Parity
Liens
upon
any
property
of
the
management reorganized
debtor
are
distributed
pursuant
to
a
Plan
of
Reorganization
then,
to
the
extent
the
debt
obligations
distributed
are
secured
by
liens
upon
the
same
property,
the
provisions
of
this
Agreement
will
survive
the
distribution
of

such
debt
obligations
pursuant
to
such
Plan
of
Reorganization
and
policies will
apply
with
like
effect
to
the
liens
securing
such
debt
obligations.

Section 8.21

Rights
and
Immunities
of
a Parity
Lien
Representatives.
The
Bond
Trustee,
the
Administrative
Agent,
and
the
Collateral
Trustee
will
be
entitled,
to
the
extent
applicable
to
such

Person,
whether
through
ownership to
all
of
voting
securities,
by
contract
or
otherwise.
For
the
avoidance
of
doubt,
the
term
"Affiliate"
shall
include
The
Heritage
Group rights,
protections,
immunities
and
any
Affiliates
of
The
Heritage
Group.

d) "Base
Pay"
means
the
annual
base
salary
in
effect
for
the
Covered
Executive
immediately

prior
to
termination
of
employment,
and
excludes
any
bonuses,
incentive
compensation,
equity
compensation
or
any
other
special
payments.

e) **“Beneficial
Owner”**
shall
have
the
meaning indemnities
set
forth
in
Rule
13d-
3
under
the
Act.

f) **“Board”**
means Indenture
and
the
Board
of
Directors Term
Loan
Agreement
and
any
Parity
Lien
Representative
will

be
entitled
to
all
of
the
General
Partner.

rights,
protections,
immunities
and
indemnities
set
forth
in
the
credit
agreement,
indenture,
or
other
agreement
governing
the
applicable
Parity
Lien
Debt
with
respect
to
which
such
Person
will
act
as
representative,
in
each
case
as
if
specifically
set
forth
herein.
In
no
event
will
any
Parity
Lien
Representative
be
liable

for
any
act
or
omission
on
the
part
of
the
Obligors
or
the
Collateral
Trustee
hereunder.

g) Section 8.22

“Bonus”

means

Force

Majeure.

The

Collateral

Trustee

shall

not

be

liable

for

delays

or

failures

in

performance

resulting

from

acts

of

God,

strikes,

lockouts,

riots,

acts

of

war,

epidemics,

governmental

regulations

superimposed

after

the

target

annual

cash
bonus
amount
in
effect
for
the
Covered
Executive
in
accordance
with
the
General
Partner's
annual
cash
incentive
plan, fact,
fire,
communication
line
failures,
computer
viruses,
power
failures,
earthquakes
or
any
other
annual,
quarterly disasters
or
similar
cash
incentive
program
maintained
by
the
Employer,
for
the
year
in
which
the
termination
of

employment
occurs.acts
beyond
its
control.

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h) Section 8.23

“Cause”
means,
Representations
and
shall
be
deemed
to
have
occurred
upon,
one
or
more
of
the
following
events:

i. commission
of
an
act
of
fraud,
embezzlement,
misappropriation,
willful
misconduct
or
breach
of
fiduciary
duty
against

the
Employer
or
other
harmful
or
potentially
harmful
conduct Warranties.
The
Collateral
Trustee,
each
Obligor
and
each
Parity
Lien
Representative
represents
and
warrants
to
the
Employer's
best
interest,
as
reasonably
determined
by
the
Committee;
ii. any
conviction,
plea
of
no
contest
or
nolo
contendere,
deferred
adjudication
or
unadjudicated
probation
for
any
felony,

or
any
crime
involving
moral
turpitude;
or
iii. continued
failure
to
substantially
perform
Covered
Employee's
material
obligations
and
duties
of
employment
with
the
Employer;
or
iv. any
material
breach
of
any
policy
of
the
Employer
applicable
to
the
Covered
Executive.

i) **"Change
of
Control"**
means,
and
shall
be
deemed
to
have
occurred

upon,
one
or
more
of
the
following
events:
i. any
“person”
or
“group”,
within
the
meaning
of
those
terms
as
used
in
Sections
13(d)
and
14(d)
(2)
of
the
Exchange
Act,
other
than
an
Affiliate,
becomes
the
Beneficial
Owner,
by
way
of
merger,
consolidation,
recapitalization,
reorganization
or
otherwise,
of
50%
or

more
of
the
voting
power
of
the
outstanding
equity
interests
of
the
Company;
ii. a
Person
other
than
the
General
Partner
or
an
Affiliate
of
the
General
Partner
becomes
the
general
partner
of
the
Company;
iii. the
sale
or
other
disposition,
including
by
liquidation
or
dissolution,
of
all
or
substantially
all
of

the
assets
of
the
General
Partner
or
the
Company
in
one
or
more
transactions
to
any
Person
other
than
an
Affiliate;
or
iv. any
other
transaction,
such
as
a
reorganization,
consolidation,
sale
of
a
business
segment,
spin-
off,
split-
off,
merger
or
similar
event
that
the
Board,
in
its
sole
discretion,

determines
to
be
a
Change
of
Control
with
respect
to
a
particular
Covered
Executive.

j) **“COBRA”**
means
the
Consolidated
Omnibus
Budget
Reconciliation
Act
of
1985,
as
amended,
and
any
guidance
and/or
regulations
promulgated
thereunder.

k) **“Code”**
means
the
Internal
Revenue
Code
of
1986,
as
amended,
and
any
guidance
and/or
regulations

*promulgated
thereunder.*

l) “Committee”

*means
the
Compensation
Committee
of
the
Board
or
another
duly
constituted
committee
of
the
Board
designated
by
the
Board
to
administer
this
Plan.*

m) “Company”

*means
Calumet
Specialty
Products
Partners,
L.P.
and
any
successor
partnership
or
other
entity.*

n) “Comparable

Offer”
*means
an
offer
of
employment*

or
continued
employment
with
the
Employer,
a
successor
or
an
acquirer
that:
(i)
provides
for
no
less
favorable
Base
Pay
and
Bonus,
in
the
aggregate,
than
the
Base
Pay
and
Bonus
provided
to
the
Covered
Executive
immediately
prior
to
the
Change
of
Control,
(ii)
provides
for
welfare
and
retirement

benefits
that
are
substantially
comparable
in
the
aggregate
to
those
received
by
the
Covered
Executive
immediately
prior
to
the
Change
of
Control,
and
(iii)
does
not
require
a
relocation
of
the
primary
location
from
which
the
Executive
works
(which
may
include
a
home
office)
to
a
location
that
increases
the

Covered
Executive's
normal
commute
by
more
than
50
miles.

o) **“Covered
Executive”**
means
the
Company's
Chief
Executive
Officer
and
each
other
employee
of
an
Employer
who,
at
the
time
of
the
Change
of
Control,
(i)
is
a
Vice
President
or
above
and
(ii)
directly
reports
to
the
Company's
Chief
Executive

Officer,
as
well
as
any
other
employee
of
an
Employer
specifically
designated
by
the
Committee
for
participation
in
this
Plan.

p) **“Deferred
Compensation
Plan”**
means
the
Calumet
Specialty
Products
Partners,
L.P.
Executive
Deferred
Compensation
Plan,
as
the
same
may
be
amended
from
time
to
time.

q) **“Disability”**
means
(i)
a

Covered
Executive's
inability
to
perform
the
essential
functions
of
their
position
by
reason
of
a
medically
determinable
physical
or
mental
impairment
that
can
be
expected
to
result
in
death
or
can
be
expected
to
last
for
a
continuous
period
of
not
less
than
12
months,
or
(ii)
the
Covered
Executive

is,
by
reason
of
a
medically
determinable
physical
or
mental
impairment
that
can
be
expected
to
result
in
death
or
can
be
expected
to
last
for
a
continuous
period
of
not
less
than
12
months,
receiving
income
replacement
benefits
for
a
period
of
not
less
than
3
months
under
an

accident
and
health
plan
of
the
Employer.

r) **“Employer”**

means,
collectively,
the
Company,
the
General
Partner,
and
each
Affiliate
which
has
adopted
this
Plan
as
a
participating
employer.
An
Affiliate
may
evidence
its
adoption
of
this
Plan
by
a
formal
action
of
its
governing
body.
An
entity
will
cease
to

be
a
participating
Employer others
as
of
the
date
such
entity
ceases
to
be
an
Affiliate.
For
purposes
of
determining hereof
(or,
in
the
entity
responsible
for
making
payments
hereunder
to
a
Covered
Executive,
“Employer”
shall
mean
the
legal
entity
on
whose
payroll
records
the
Covered
Executive
is
listed.

s) “ERISA”
means

the
Employee
Retirement
Income
Security
Act
of
1974,
as
amended,
and
any
guidance
and/or
regulations
promulgated
thereunder.

t) **“General
Partner”**
means
Calumet
GP,
LLC,
a
Delaware
limited
liability
company.

u) **“Good
Reason”**
means
the
occurrence case
of
any
Parity
Lien
Representative
that
becomes
a
party
hereto
after
the
date
hereof,
on

the
date
that
it
becomes
party
hereto),
that:
(a)
neither
the
execution
and
delivery
of
this
Agreement
nor
its
performance
of
its
obligations
hereunder,
will
violate,
or
result
in
a
breach
of
the
following,
without
the
Covered
Executive's
written
consent:
i. terms,
conditions,
or
provisions
of,
or
constitute
a
material
reduction

in
the
Covered
Executive's
Base
Pay;
ii. a
material
reduction
in
the
Covered
Executive's
Bonus;
iii. the
relocation
of
the
primary
location
from default
under,
any
other
agreement
to
which
the
Covered
Executive
works
(which
may
include
a
home
office) it
is
now
subject;
(b)
it
has
all
requisite
authority
to
a
location
that

increases
the
Covered
Executive's
normal
commute
by
more
than
50
miles;
or
iv. a
material
diminution
in
the
authority,
duties
or
responsibilities
of
the
Covered
Executive.
For
a
resignation
to
be
for
"Good
Reason,"
(1)
the
Covered
Executive
must
provide
written
notice
to
the
Committee
specifying
the
alleged
grounds
for
Good

Reason
within
20
calendar
days
after execute,
delivery
and
perform
its
occurrence
(or
if
later,
the
covered
Executive's
first
knowledge
of obligations
under
this
Agreement;
and
(c)
this
Agreement
constitutes
its
occurrence),
(2)
the
Employer
must
have
failed
to
cure
such
grounds
within
15
calendar
days
following
the
receipt
of
such
notice, legal,

valid
and
(3)
the
Covered
Executive
must
resign
within
20
calendar
days
following
the
expiration
of
such
cure
period.

v) “LTIP”
means
the
Calumet
GP,
LLC
Amended
and
Restated
Long-
Term
Incentive
Plan,
as
may
be
amended
from
time
to
time,
and
any
successor
equity
compensation
plan
of
the
Company.

w) **“Person”**

means
any
individual,
corporation,
firm,
partnership,
joint
venture,
limited
liability
company,
estate,
trust,
business
association,
organization,
governmental
entity,
or
other
entity.

x) **“Plan”**

means
this
Calumet
Specialty
Products
Partners,
L.P.
Change
of
Control
Protection
Plan,
as
amended
from
time
to
time.

y) **“Plan
Benefit”**

means
the
payments
and

benefits
specified
for
a
Covered
Executive
in
Appendix
A,
as
the
same
may
be
amended
by
the
Committee
from
time
to
time.

z) **“Protection
Period”**
means
the
period
commencing
30-
days
prior
to
the
date
a
Change
of
Control
is
consummated
and
ending
on
the
12-
month
anniversary
thereof.

aa) **“Qualifying Termination”**
means
a
Covered
Executive's
termination
of
employment
with
the
Employer
and
its
subsidiaries
either
by
the
Employer
without
Cause
or
by
the
Covered
Executive
for
Good
Reason.

Section

3. Eligibility.

a) A
Covered
Executive
shall
be
automatically
eligible
to
participate
in
this
Plan
upon
becoming
a

Covered
Executive.

b) Unless
otherwise
provided
by
the
Committee,
a
Covered
Executive
shall
not
be
eligible
for
Plan
Benefits
if:

i. the
Covered
Executive
voluntarily
terminates
employment
with
the
Employer
for
any
reason
other
than
Good
Reason,
including
retirement
or
job
abandonment;

ii. the
Covered
Executive
terminates
employment
as
a
result
of

death
or
Disability;

iii. the
Covered
Executive's
employment
is
terminated
by
the
Employer
for
Cause;

iv. the
Covered
Executive
voluntarily
rejects
a
Comparable
Offer
for
employment
during
the
Protection
Period;
or

v. the
Covered
Executive's
employment
is
terminated
at
any
time
outside
of
the
Protection
Period.

c) As
a
condition
to
receiving

the
Plan
Benefits,
the
Covered
Executive
must
execute
and
not
revoke
a
separation
and
release
of
claims
agreement
in
a
form
provided
by
the
Employer
(the
“**Separation
Agreement**”).
The
Separation
Agreement
must
be
executed
and
delivered
to
the
Employer
within
the
period
of
time
set
forth
therein.

Section 4.

Plan
Benefits.

a) In the event of a Covered Executive's termination of employment for any reason, such Covered Executive shall be entitled to receive the Accrued Obligations. Participation in all benefit plans of the Employer will terminate upon a Covered Executive's date of termination except as otherwise specifically provided in

the
applicable
plan.

b) In
the
event
of
a
Covered
Executive's
Qualifying
Termination,
the
Covered
Executive
will
be
eligible
to
receive
the
Plan
Benefits binding
obligation,
enforceable
against
it
in
accordance
with
its
terms,
subject
only
to
applicable
bankruptcy,
insolvency
or
similar
laws
and
general
principles
of
equity.

Section 8.24

Additional
Persons

Bound
Hereby.
Each
Parity
Lien
Secured
Party
(other
than
the
terms
hereof.
The
Plan
Benefits
for Parity
Lien
Representative)
and
each
holder
of
any
Parity
Lien
Debt
(other
than
the
Parity
Lien
Representative)
agrees,
by
virtue
of
becoming
a
Covered
Executive Parity
Lien
Secured
Party
or
a
holder
of
any
Parity
Lien

Debt,
as
applicable,
that
it
shall
be
determined
as
set
forth
in
Appendix
A,
as
the
same
may
be
amended
by
the
Committee
from
time
to
time.

c) To
the
extent
that
any
Covered
Executive
receives
payment
under
this
Plan
in
excess
of
the
Plan
Benefits
to
which
such

Covered
Executive
is
entitled,
the
Covered
Executive
shall
promptly
return
any
excess
to
the
Employer
upon
request
(to
the
fullest
extent
permitted
by
applicable
law);
moreover,
the
Plan
Benefits
shall
be
subject
to
repayment
upon
the
Employer's
discovery
of
any
act
or
occurrence
that
would
have
been
grounds
for
termination

of
employment
for
Cause
had
Employer
known
of
such
act
or
occurrence
at
the
time
of
the
Covered
Executive's
termination
of
employment.

Section

5.

Administration.

a) This
Plan
shall
be
administered
by
the
Committee
in
its
sole
and
absolute
discretion,
and
all
determinations
by
the
Committee
shall
be
final,

binding,
and
conclusive
on
all
parties.
The
Employer
reserves
the
right
to,
and
may,
enhance
a
Covered
Executive's
Plan
Benefits,
in
writing,
in
its
sole
discretion
and
without
an
amendment
to
this
Plan,
and
may
provide
for
other
forms
of
severance
pay
or
benefits.

b) In
the
event
of
any

conflict
or
inconsistency
between
another
document
and
the
terms
of
this
Plan,
the
terms
and
conditions
of
this
Plan
shall
govern
and
control.

c) The
Committee
shall
have
the
authority,
consistent
with
the
terms
of
this
Plan,
to
(i)
designate
Covered
Executives,
(ii)
determine
the
terms
and
conditions
relating
to

the
Plan
Benefit,
if
any,
(iii)
interpret,
administer,
reconcile
any
inconsistency,
correct
any
defect
and/or
supply
any
omission
in
this
Plan,
(iv)
establish,
amend,
suspend
or
waive
any
rules
and
procedures
with
respect
to
this
Plan,
and
(v)
make
any
other
determination
and
take
any
other
action
that
the
Committee

deems
necessary
or
desirable
for
administration
of
this
Plan,
including,
without
limitation,

the
timing
and
amount
of
payments.
The
Committee
may
delegate
to
one
or
more
of
the
officers
of
the
Employer
the
authority
to
act
on
behalf
of
the
Committee
in
administering
this
Plan.

Section

6.

Funding.

The obligations of the Employer under this Plan are not funded through contributions to a trust or otherwise, and all benefits shall be payable from the general assets of the Employer. Nothing contained in this Plan shall give a Covered Executive any right, title or interest in any property of

the
Employer.
Covered
Executives
shall
be
mere
unsecured
creditors
of
the
Employer.

Section

7.

Code

Section

409A.

a) **Compliance.**
Notwithstanding
anything
herein
to
the
contrary,
this
Plan
is
intended
to
be
interpreted
and
applied
so
that
the
payments
and
benefits
set
forth
herein
either
shall
be
exempt
from
the

requirements
of
Code
Section
409A
or
shall
comply
with
the
requirements
of
Code
Section
409A,
and,
accordingly,
to
the
maximum
extent
permitted,
this
Plan
shall
be
interpreted
to
be
exempt
from
or
in
compliance
with
Code
Section
409A.
To
the
extent
that
the
Company
determines
that
any
provision
of
this

Plan
would
cause
a
Covered
Executive
to
incur
any
additional
tax
or
interest
under
Code
Section
409A,
the
Company
shall
be
entitled
to
reform
such
provision
to
attempt
to
comply
with
or
be
exempt
from
Code
Section
409A
through
good
faith
modifications.
To
the
extent
that
any
provision
hereof
is

modified
in
order
to
comply
with
Code
Section
409A,
such
modification
shall
be
made
in
good
faith
and
shall,
to
the
maximum
extent
reasonably
possible,
maintain
the
original
intent
and
economic
benefit
to
Covered
Executives
and
the
Company
without
violating
the
provisions
of
Code
Section
409A.
Notwithstanding
any
of
the

foregoing
to
the
contrary,
none
of
the
Company
or
its
subsidiaries
or
affiliates
or
any
of
their
officers,
directors,
members,
employees,
agents,
advisors,
predecessors,
successors,
or
equity
holders
shall
have
any
liability
for
the
failure
of
this
Plan
to
be
exempt
from,
or
to
comply
with,
the
requirements
of
Section

409A
of
the
Code.
Each
payment
and/or
benefit
provided
hereunder
shall
be
a
payment
in
a
series
of
separate
payments
for
purposes
of
Code
Section
409A.

b) **Separation**
from
Service.
Notwithstanding
anything
in
this
Plan
to
the
contrary,
a
termination
of
employment
shall
not
be
deemed
to
have
occurred
for

purposes
of
any
provision
of
this
Plan
unless
such
termination
is
also
a
"separation
from
service"
within
the
meaning
of
Code
Section
409A.

c) **Reimbursements.**

To
the
extent
that
any
right
to
reimbursement
of
expenses
or
payment
of
any
benefit
in-
kind
under
this
Plan
constitutes
nonqualified
deferred
compensation
(within

the
meaning
of
Code
Section
409A):
i. any
such
expense
reimbursement
shall
be
made
by
the
Company
no
later
than
the
last
day
of
the
taxable
year
following
the
taxable
year
in
which
such
expense
was
incurred
by
the
Covered
Executive,

ii. the
right
to
reimbursement
or
in-
kind
benefits
shall

not
be
subject
to
liquidation
or
exchange
for
another
benefit,
and
iii. the
amount
of
expenses
eligible
for
reimbursement
or
in-
kind
benefits
provided
during
any
taxable
year
shall
not
affect
the
expenses
eligible
for
reimbursement
or
in-
kind
benefits
to
be
provided
in
any
other
taxable
year;
provided,
that
the

foregoing
clause
shall
not
be
violated
with
regard
to
expenses
reimbursed
under
any
arrangement
covered
by
Section
105(b)
of
the
Code
solely
because
such
expenses
are
subject
to
a
limit
related
to
the
period
in
which
the
arrangement
is
in
effect.

Section

8.

Amendment and Termination.

Prior

to

the
consummation
of
a
Change
of
Control,
the
Committee
may
amend
or
terminate
this
Plan
at
any
time,
without
notice,
and
for
any
or
no
reason,
except
as
prohibited
by
law.
No
such
action
shall
adversely
affect
the
rights
of
any
Covered
Executive
who
has
previously
experienced
a
Qualifying
Termination

without
the
Covered
Executive's
written
consent.
Upon
or
after
the
consummation
of
a
Change
of
Control,
the
Company
and
the
Committee
may
not,
without
a
Covered
Executive's
written
consent,
amend
or
terminate
this
Plan
in
any
way,
nor
take
any
other
action,
that
(i)
prevents
that
Covered
Executive
from
becoming

eligible
for
the
Plan
Benefits,
or
(ii)
reduces
or
alters
to
the
detriment
of
the
Covered
Executive
the
Plan
Benefits
payable,
or
potentially
payable,
to
a
Covered
Executive
under
this
Plan
(including,
without
limitation,
imposing
additional
conditions
on
such
payments
or
benefits).
This
Plan
shall
automatically
terminate
upon
the
later

of
the
(i)
payment
of
all
applicable
benefits
under
this
Plan
or
(ii)
90
days
following
the
end
of
the
Protection
Period.

Section

9.
Employment
at
Will.

Nothing
in
this
Plan
or
any
other
act
of
the
Employer
shall
be
considered
effective
to
change
a
Covered
Executive's
status

as
an
at-
will
employee
or
guarantee
any
duration
of
employment.
Either
the
Employer
or
a
Covered
Executive
may
terminate
the
employment
relationship
at
any
time,
for
any
reason
or
no
reason,
and
with
or
without
advance
notice.

Section
10.
Transfer
and
Assignment;
Effect
of
Death.

In
no

event
may
any
Covered
Executive
sell,
transfer,
anticipate,
assign
or
otherwise
dispose
of
any
right
or
interest
under
this
Plan.
At
no
time
will
any
such
right
or
interest
be
subject
to
the
claims
of
creditors
nor
liable
to
attachment,
execution,
or
other
legal
process.
If
a
Covered
Executive
dies

prior
to
receiving
full
payment
of
benefits
to
which
he
or
she
is
entitled,
any
unpaid
benefits
will
be
paid
to
the
Covered
Executive's
surviving
spouse,
or
if
the
Covered
Executive
does
not
have
a
surviving
spouse,
to
the
Covered
Executive's
estate.

Section

11.

Severability.

If

any
provision

of
this
Plan
is
held
invalid
or
unenforceable,
its
invalidity
or
unenforceability
will
not
affect
any
other
provision
of
this
Plan,
and
this
Plan
will
be
construed
and
enforced
as
if
such
provision
had
not
been
included.

Section
12.
Successors.

Any
successor
to
the
Employer
of
all

or
substantially
all
of
the
Employer's
business
and/or
assets
(whether
direct
or
indirect
and
whether
by
purchase,
merger,
consolidation,
liquidation
or
other
transaction)
will
assume
the
obligations
under
this
Plan
and
agree
expressly
to
perform
the
obligations
under
this
Plan
in
the
same
manner
and
to
the
same
extent
as

the
Employer
would
be
required
to
perform
such
obligations
in
the
absence
of
a
succession.
For
all
purposes
under
this
Plan,
the
term
"Employer"
will
include
any
successor
to
the
Employer's
business
and/or
assets
which
become
bound
by
the
terms
of
this
Plan
by
operation Agreement
as
if
it
were
a

party
hereto.

[The
remainder
of
law,
or
otherwise. this
page
is
intentionally
left
blank.]

Section 13.
Withholding;
Taxes. 645376969.9

▪

The
Employer
shall
withhold
from
Plan
Benefits
all
federal,
state
and
local
income
or
other
taxes
required

IN
WITNESS
WHEREOF,
the
undersigned
have
caused
this
Agreement
to
be

withheld
therefrom duly
executed
and
any
other
required
payroll
deductions.

Section
14.
Compensation.

Benefits
payable
hereunder
shall
not
constitute
compensation
under
any
other
plan
or
arrangement,
except delivered
as
expressly
provided
in
such
plan
or
arrangement.

Section
15.
Entire
Agreement.

This
Plan
represents
the
entire
agreement
of
the
Employer

and
such
Covered
Executive
with
respect date
first
above
written.

MONTANA RENEWABLES
HOLDINGS LLC

By: /s/ Vincent
Donargo
Name: Vincent Donargo
Title: Executive Vice
President & Chief
Financial Officer

MONTANA RENEWABLES, LLC

By: /s/ Vincent
Donargo
Name: Vincent Donargo
Title: Executive Vice
President & Chief
Financial Officer

[Signature

Page –

Collateral Trust

Agreement]

WILMINGTON
TRUST,
NATIONAL
ASSOCIATION,
solely in its
capacity as
Collateral
Trustee and not
individually

By: /s/ Joy
Holloway.
Name:
Joy Holloway
Title:
Vice President

[Signature

Page –

Collateral Trust
Agreement]

▪

DELAWARE
TRUST
COMPANY,
solely in its
capacity as
Administrative
Agent and not
individually

By: /s/ Kelvin
Vargas
Name:
Kelvin Vargas
Title:
Vice
President

[Signature

Page –

Collateral Trust

Agreement]

-

EXHIBIT

A

FORM

OF

ADDITIONAL

PARITY

LIEN

DEBT

CERTIFICATE

Reference

is

made

to

the

subject

matter

hereof Collateral

Trust

Agreement

dated

as

of

April

19,

2023

(as

amended,

supplemented,

amended

and

supersedes

all

prior

understandings,

whether

written restated

or

oral.

Section

16.

Governing

Law.

The provisions of this Plan will be construed, administered, otherwise modified and enforced in accordance with effect from time to time, the “Collateral Trust Agreement”), by and among Montana Renewables, LLC, a limited liability company organized under the laws of the State of Delaware without regard (the “Company”), the other

Obligors
from
time
to
conflicts time
party
thereto,
Delaware
Trust
Company,
as
Administrative
Agent,
the
other
Parity
Lien
Representatives
from
time
to
time
party
thereto
and
Wilmington
Trust,
National
Association,
as
Collateral
Trustee.
Capitalized
terms
used
but
not
otherwise
defined
herein
have
the
meanings
assigned
to
them
in
the
Collateral
Trust

Agreement.

This
Additional
Parity
Lien
Debt
Certificate
is
being
executed
and
delivered
in
order
to
designate
additional
secured
debt
as
Parity
Lien
Debt
entitled
to
the
benefit
of
the
Collateral
Trust
Agreement.

The
undersigned,
the
duly
appointed
[specify
title]
of
the
Company
hereby
certifies
on
behalf
of
the
Company

and
not
in
[his/her]
individual
capacity
that:

(A)

the
Company
intends
to
incur
additional
Parity
Lien
Debt
("Additional
Parity
Lien
Debt")
which
is
permitted
by
each
applicable
Parity
Lien
Document
to
be
secured
by
a
Parity
Lien
equally
and
ratably
with
all
other
Parity
Lien
Debt
and
such
Additional

Parity
Lien
Debt
is
not:
(i)
Indebtedness
of
the
Company
to
any
of
its
Subsidiaries
or
Affiliates,
or
(ii)
Indebtedness
incurred
under
the
Working
Capital
Facility
Credit
Agreement
or
any
Inventory
Agreement;

(B)
the
name
and
address
of
the
Parity
Lien
Debt
Representative
for
the
Additional
Parity
Lien
Debt

for
purposes
of
Section
8.7
of
the
Collateral
Trust
Agreement
is:

Telephone:

Fax:

(C)
attached
as
Exhibit
1
hereto
is
a
Reaffirmation
Agreement
duly
executed
by
each
Obligor,
and

(D)
the
Company
has
caused
a
copy
of
this
Additional
Parity
Lien
Debt
Certificate
and
the
related
Collateral

Trust
Joinder
to
be
delivered
to
each
existing
Parity
Lien
Representative.

A-
1

IN
WITNESS
WHEREOF,
the
Company
has
caused
this
Additional
Parity
Lien
Debt
Certificate
to
be
duly
executed
by
the
undersigned
officer
as
of
[redacted]

20

MONTANA
RENEWABLES,
LLC

By

Name:

Title:

ACKNOWLEDGEMENT
OF
RECEIPT

The
undersigned,
the
duly
appointed
Collateral
Trustee
under
the
Collateral
Trust
Agreement,
hereby
acknowledges
receipt
of
an

executed
copy
of
this
Additional
Parity
Lien
Debt
Certificate.

Wilmington
Trust, National
Association, as
Collateral
Trustee
By: _____
Name: _____
Title: _____

135376969.9

A-2

▪

EXHIBIT 1
TO
ADDITIONAL
PARITY
LIEN
DEBT
CERTIFICATE
FORM OF
REAFFIRMATION
AGREEMENT

[
],
20[
]

Reference

is
made
to
the

Collateral
Trust
Agreement
dated
as
of
April
19,
2023
(as
amended,
supplemented,
amended
and
restated
or
otherwise
modified
and
in
effect
from
time
to
time,
the
"Collateral
Trust
Agreement"),
by
and
among
Montana
Renewables,
LLC,
a
limited
liability
company
organized
under
the
laws
principles
thereof. of
the
State
of
Delaware,
the

other
Obligors
from
time
to
time
party
thereto,
Delaware
Trust
Company,
as
Administrative
Agent,
the
other
Parity
Lien
Representatives
from
time
to
time
party
thereto
and
Wilmington
Trust,
National
Association,
as
Collateral
Trustee.
Capitalized
terms
used
but
not
otherwise
defined
herein
have
the
meanings
assigned
to
them
in
the
Collateral

Trust
Agreement.
This
Reaffirmation
Agreement
is
being
executed
and
delivered
as
of
the
date
first
above
written
in
connection
with
an
Additional
Parity
Lien
Debt
Certificate
of
even
date
herewith
which
Additional
Parity
Lien
Debt
Certificate
has
designated
additional
Parity
Lien
Debt
entitled
to
the
benefit
of
the
Collateral

Trust
Agreement.
Each
of
the
undersigned
hereby
consents
to
the
designation
of
additional
secured
debt
as
Parity
Lien
Debt
as
set
forth
in
the
Additional
Parity
Lien
Debt
Certificate
of
even
date
herewith
and
hereby
confirms
its
respective
guarantees,
pledges,
grants
of
security
interests
and
other
obligations,
as
applicable,
under

and
subject
to
the
terms
of
each
of
the
Parity
Lien
Documents
to
which
it
is
party,
and
agrees
that,
notwithstanding
the
designation
of
such
additional
indebtedness
or
any
of
the
transactions
contemplated
thereby,
such
guarantees,
pledges,
grants
of
security
interests
and
other
obligations,
and
the
terms
of
each
Parity

Lien
Document
to
which
it
is
a
party,
shall
continue
to
be
in
full
force
and
effect.

THIS
AGREEMENT
SHALL
BE
GOVERNED
BY
THE
LAWS
OF
THE
STATE
OF
NEW
YORK
WITHOUT
GIVING
EFFECT
TO
ANY
CONFLICT
OF
LAW
PRINCIPLES
(BUT
GIVING
EFFECT
TO
SECTION
5-
1401
OF
THE

NEW
YORK
GENERAL
OBLIGATION
LAW).

Consent

to

Jurisdiction:

Waiver

of

Jury

Trial.

The

provisions

of

Section

8.15,

Section

8.16

and

Section

8.17

of

the

Collateral

Trust

Agreement

will

apply

with

like

effect

to

this

Reaffirmation

Agreement.

IN

WITNESS

WHEREOF,

each

of

the

undersigned

has

caused

this

Reaffirmation

Agreement

to

be

duly
executed
as
of
the
date
written
above.
[names of the
Obligors]

Name: _____
Title: _____

135376969.9

A-3

▪

EXHIBIT

B

FORM

OF

COLLATERAL

TRUST

JOINDER

(ADDITIONAL

PARITY

LIEN

DEBT).

Reference

is
made
to
the
Collateral
Trust
Agreement
dated
as
of
April
19,
2023
(as

amended,
supplemented,
amended
and
restated
or
otherwise
modified
and
in
effect
from
time
to
time,
the
"Collateral
Trust
Agreement"),
by
and
among
Montana
Renewables,
LLC,
a
limited
liability
company
organized
under
the
laws
of
the
State
of
Delaware
(the
"Company"),
the
other
Obligors
from
time
to
time
party
thereto,
Delaware

Trust
Company,
as
Administrative
Agent,
the
other
Parity
Lien
Representatives
from
time
to
time
party
thereto
and
Wilmington
Trust,
National
Association,
as
Collateral
Trustee.
Capitalized
terms
used
but
not
otherwise
defined
herein
have
the
meanings
assigned
to
them
in
the
Collateral
Trust
Agreement.
This
Collateral
Trust
Joinder
is
being
executed

and
delivered
pursuant
to
Section
17.
Claims
and
Appeals.

a) **Claims**
Procedure4.8
of
the
Collateral
Trust
Agreement
as
a
condition
precedent
to
the
debt
for
which
the
undersigned
is
acting
as
agent
being
entitled
to
the
benefits
of
being
Additional
Parity
Lien
Debt
under
the
Collateral
Trust
Agreement.

[1.
Joinder.
Any
Covered
Executive The
undersigned,
[
],
a
[
],
(the
“New
Representative”)
as
[a
secured
hedge
counterparty, trustee,
administrative
agent]
under
that
certain
[described
applicable
secured
hedge
agreement,
indenture,
credit
agreement
or
other
person
who
believes
they document
governing
the
additional
secured
debt]
hereby
agrees
to
become
party
as
a

Parity
Lien
Representative
under
the
Collateral
Trust
Agreement
for
all
purposes
thereof
on
the
terms
set
forth
therein,
and
to
be
bound
by
the
terms
of
the
Collateral
Trust
Agreement
as
fully
as
if
the
undersigned
had
executed
and
delivered
the
Collateral
Trust
Agreement
as
of
the
date
thereof.]¹

[1.]
[2.]
Additional
Secured
Debt
Designation
The
undersigned,
on
behalf
of
itself
and
each
holder
of
Obligations
in
respect
of
the
[Additional
Notes]
[Series of
Parity
Lien
Debt]
for
which
the
undersigned
is
acting
as
Parity
Lien
Representative
hereby
agrees,
for
the
enforceable
benefit
of
each
existing
and
future
holder
of

Parity
Lien
Obligations,
the
Collateral
Trustee,
all
holders
of
each
current
and
future
Series of
Parity
Lien
Debt
and
each
other
current
and
future
Parity
Lien
Representative
and
as
a
condition
to
being
treated
as
Parity
Lien
Debt
under
the
Collateral
Trust
Agreement
that:

(a)

all
Parity
Lien
Obligations
will
be

and
are
entitled secured
equally
and
ratably
by
all
Parity
Liens
at
any
time
granted
by
any
Obligor
to
secure
any
Obligations
in
respect
of
any
[Additional
Notes]
[Series of
Parity
Lien
Debt],
whether
or
not
upon
property
otherwise
constituting
collateral
for
such
Series of
Parity
Lien
Debt
(subject
to
the
terms
of

the
Collateral
Trust
Agreement,
including
Section
2.4
thereof),
and
that
all
such
Parity
Liens
will
be
enforceable
by
the
Collateral
Trustee
for
the
benefit
of
all
holders
of
Parity
Lien
Obligations
equally
and
ratably;

(b)

the
undersigned
and
each
holder
of
Obligations
in
respect
of
the
[Additional
Notes]
[Series of
Parity

Lien
Debt]
for
which
the
undersigned
is
acting
as
Parity
Lien

1
Delete
if
Additional
Parity
Lien
Debt
constitutes
Additional
Notes
or
Guarantees
thereof

B-

1

-

Representative
are
bound
by
the
provisions
of
the
Collateral
Trust
Agreement,
including
the
provisions
relating
to
the

ranking
of
Parity
Liens
and
the
order
of
application
of
proceeds
from
the
enforcement
of
Parity
Liens;
and

(c)

the
Collateral
Trustee
shall
perform
its
obligations
under
the
Collateral
Trust
Agreement
and
the
other
Parity
Lien
Security
Documents.

[[2.]

[3.]
The
Company
hereby
certifies
and
agrees
as
follows:

(a)

the
new
secured
hedge
counterparty
is
an
approved
counterparty.

(b)

The
ISDA
Master
Agreement,
including
the
related
Schedules
and
Annexes
(including
the
Lien
Annex)
thereto,
dated
on
or
about
the
date
hereof,
and
each
Confirmation
(as
defined
thereunder)
evidencing
a
transaction
between
the
new
secured
hedge
counterparty
and

the
applicable
Obligor
(as
each
may
be
further
amended,
modified
and
supplemented
and
in
effect
from
time
to
time)
is
intended
to
be
considered,
and
deemed
to
be,
for
all
purposes
of
the
Parity
Lien
Documents,
a
secured
hedge
agreement.]²

[2.

]

[3.]

[4.]

No

Parity

Lien

Debt

Default

has
occurred
and
is
continuing
under
the
Collateral
Trust
Agreement
or
any
of
the
Parity
Lien
Documents.

[3.]

[4.]

[5.]

THIS
AGREEMENT
SHALL
BE
GOVERNED
BY
THE
LAWS
OF
THE
STATE
OF
NEW
YORK
WITHOUT
GIVING
EFFECT
TO
ANY
CONFLICT
OF
LAW
PRINCIPLES
(BUT
GIVING
EFFECT
TO
SECTION
5-

1401
OF
THE
NEW
YORK
GENERAL
OBLIGATION
LAW)..

[4.] [5.][6.]

Consent
to
Jurisdiction:
Waiver
of
Jury
Trial.
The
provisions
of
Section
8.15,
Section
8.16
and
Section
8.17
of
the
Collateral
Trust
Agreement
will
apply
with
like
effect
to
this
Collateral
Trust
Joinder.

IN
WITNESS
WHEREOF,
the
parties
hereto
have
caused

this
Collateral
Trust
Joinder
to
be
executed
by
their
respective
officers
or
representatives
as
of
[
].
20[
].
[insert name of the
new representative
or the Trustee]
Name: _____
Title: _____

2
To
be
inserted
if
the
new
Parity
Lien
Debt
is
under
a
Secured
Hedge
Agreement.
135376969.9
B-2

[MONTANA
RENEWABLES,
LLC

By

Name:
Title:]

The
Collateral
Trustee
hereby
acknowledges
receipt
of
this
Collateral
Trust
Joinder
and
agrees
to
act
as
Collateral
Trustee
for
the
[New
Representative]
[Trustee]
and
the
holders
of
the
Obligations
represented
thereby.

WILMINGTON
TRUST, NATIONAL
ASSOCIATION, as
Collateral Trustee
By: _____
Name: _____
Title: _____

135376969.9

B-3

▪

EXHIBIT
C

FORM
OF
COLLATERAL
TRUST
JOINDER
(ADDITIONAL
OBLIGOR).

Reference
is
made
to
the
Collateral
Trust
Agreement
dated
as
of
April
19,
2023
(as
amended,
supplemented,
amended
and
restated
or
otherwise
modified

and
in
effect
from
time
to
time,
the
“Collateral
Trust
Agreement”),
by
and
among
Montana
Renewables,
LLC,
a
limited
liability
company
organized
under
the
laws
of
the
State
of
Delaware,
the
other
Obligors
from
time
to
time
party
thereto,
Delaware
Trust
Company,
as
Administrative
Agent,
the
other
Parity
Lien
Representatives

from
time
to
time
party
thereto
and
Wilmington
Trust,
National
Association,
as
Collateral
Trustee.
Capitalized
terms
used
but
not
otherwise
defined
herein
have
the
meanings
assigned
to
them
in
the
Collateral
Trust
Agreement.
This
Collateral
Trust
Joinder
is
being
executed
and
delivered
pursuant
to
Section
8.19
of
the
Collateral

Trust
Agreement.

1.

Joinder.

The
undersigned,

[

],

a

[

],

hereby

agrees

to

become

party

as

an

Obligor

under

the

Collateral

Trust

Agreement

for

all

purposes

thereof

on

the

terms

set

forth

therein,

and

to

be

bound

by

the

terms

of

the

Collateral

Trust

Agreement

as

fully

as

if

the
undersigned
had
executed
and
delivered
the
Collateral
Trust
Agreement
as
of
the
date
thereof.

2.

Governing
Law:
THIS
AGREEMENT
SHALL
BE
GOVERNED
BY
THE
LAWS
OF
THE
STATE
OF
NEW
YORK
WITHOUT
GIVING
EFFECT
TO
ANY
CONFLICT
OF
LAW
PRINCIPLES
(BUT
GIVING
EFFECT
TO
SECTION
5-
1401
OF
THE

NEW
YORK
GENERAL
OBLIGATION
LAW).

3.

Consent
to
Jurisdiction;
Waiver
of
Jury
Trial.
The
provisions
of
Section
8.15,
Section
8.16
and
Section
8.17
of
the
Collateral
Trust
Agreement
will
apply
with
like
effect
to
this
Collateral
Trust
Joinder.

[The
remainder
of
this
page
is
intentionally

left
blank.]
C-
1

IN
WITNESS
WHEREOF,
the
parties
hereto
have
caused
this
Collateral
Trust
Joinder
to
be
executed
by
their
respective
officers
or
representatives
as
of
[
],
20[
].
[]
By:
Name:
Title:
The
Collateral
Trustee
hereby
acknowledges
receipt
of
this
Collateral

Trust
Joinder
and
agrees
to
act
as
Collateral
Trustee
with
respect
to
the
Collateral
pledged
by
the
new
Obligor:
**WILMINGTON
TRUST, NATIONAL
ASSOCIATION, as
Collateral Trustee**
By: _____
Name: _____
Title: _____

C-

2

▪

EXHIBIT
D
FORM
OF
REVENUE
ACCOUNT
WITHDRAWAL
REQUISITION

To: Wilmington
Trust,
National
Association,
as Collateral
Trustee (the
"Collateral
Trustee")
Copy: Delaware
Trust
Company, as
Administrative
Agent
Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company")
and the
Collateral
Trustee.

Requisition

No.

This
requisition
is
delivered
to
you
pursuant
to
Section

3.2(c).
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
the
Revenue
Account,
to
the
extent
available,
in
accordance
with
the
instructions
set
forth
herein.
Capitalized
terms
used
but
not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

The
undersigned,

on
behalf
of
the
Company
hereby
requests
disbursement
from
the
Revenue
Account
established
under
the
Collateral
Trust
Agreement
on
the
[_____] ,
[_____] ,
20[_____] (such
date,
the
"Transfer
Date"),
the
amounts
to
the
payees
and
Trust
Accounts,
all
as
set
forth
on
Schedule
1
attached
hereto.

In
support
of
such

request,
the
undersigned,
on
behalf
of
the
Company,
hereby
represents
and
certifies
to
the
Collateral
Trustee
as
follows:

1. The
undersigned
is
an
Authorized
Company
Representative.
2. The
Transfer
Date
is
a
Monthly
Funding
Date
[and,
with
respect
to
item
10
of
Schedule
1,
is
a
Quarterly
Funding
Date]³.

3. The amount set forth in item 1 of Schedule 1 does not exceed the Operating and Maintenance Expenses.

4. The amount set forth in item 2 of Schedule 1 is an amount that is equal (on a *pro rata* basis with the amounts set forth in items 3 and 4

of
Schedule
1)
to
the
quotient
of
(a)
the
sum
of
(i)
the
interest
due
and
payable
with
respect
to
the
Bonds
on
the
next
succeeding
Payment
Date,
plus
(ii)
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
minus
(iii)
the
amount
of

interest,
profits
and
other
income

3 Insert if
an
amount
is
specified
in Line
10 of
Schedule
1
D-
1

on
amounts
received
and/or
expected
to
be
received
from
the
investment
of
moneys
deposited
in
the
Bond
Debt
Service
Reserve
Account
that
is
in
excess
of
the
Tax

Rebate
Amount
expected
to
be
due
and
payable
on
the
succeeding
Payment
Date
and
expected
to
be
available
to
be
applied
to
interest
on
the
succeeding
Payment
Date,
and
(b)
divided
by
6.

5. The
amount
set
forth
in
item
3
of
Schedule
1
is
an
amount
equal
on
a

pro
rata
basis
with
the
amounts
set
forth
in
items
2
and
4
of
Schedule
1)
to
the
interest
due
and
payable
under
the
Term
Loan
(when
and
if
made)
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding

Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
the
Term
Loan.

6. The
amount
set
forth
in
item
4
of
Schedule
1
is
an
amount
equal
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
items
2

and
3
of
Schedule
1)
to
the
interest
and
ordinary
course
swap
settlement
payments,
in
each
case,
due
and
payable
under
the
Stonebriar
Sale
Leaseback
Obligations
and
any
other
Parity
Debt
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the

preceding
Payment
Date,
divided
by
the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
each.

7. The
amount
set
forth
in
item
5
of
Schedule
1
is
an
amount
equal
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
items
6
and

7
of
Schedule
1)
to
the
quotient
of
(a)
the
sum
of
(i)
the
principal
due
and
payable
with
respect
to
the
Bonds
on
the
next
succeeding
Payment
Date,
plus
(ii)
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
minus
(iii)
the
amount

of
interest,
profits
and
other
income
on
amounts
received
and/or
expected
to
be
received
from
the
investment
of
moneys
deposited
in
the
Bond
Debt
Service
Reserve
Account
that
is
in
excess
of
the
Tax
Rebate
Amount
expected
to
be
due
and
payable
on
the
succeeding
Payment
Date
and
expected
to

be
available
to
be
applied
to
principal
on
the
succeeding
Payment
Date,
and
(b)
divided
by
6.

8. The
amount
set
forth
in
item
6
of
Schedule
1
is
an
amount
equal
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
items
5
and
7
of
Schedule
1)

to
the
quotient
of
(a)
the
sum
of
(i)
the
principal
due
and
payable
under
the
Term
Loan
(when
and
if
made)
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by
the
number
of
months

(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
the
Term
Loan.

9. The
amount
set
forth
in
item
7
of
Schedule
1
is
an
amount
equal
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
items
5
and
6
of
Schedule
1)
to
the
principal,

letters
of
credit
reimbursement
obligations,
and
swap
termination
payments,
in
each
case,
due
and
payable
under
the
Stonebriar
Sale
Leaseback
Obligations
and
any
other
Parity
Debt
on
the
next
succeeding
Payment
Date,
plus
the
cumulative
amount
of
any
deficiencies
of
such
transfers
occurring
since
the
preceding
Payment
Date,
divided
by

the
number
of
months
(not
less
than
one)
occurring
between
Payment
Dates
with
respect
to
each.

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D-2

▪

10. The
amount
set
forth
in
item
8
of
Schedule
1
is
an
amount
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
item
9

of
Schedule
1)
required
to
make
the
amount
on
deposit
(taking
into
account
the
undrawn
amount
of
any
letters
of
credit
posted
therein)
in
the
Bond
Debt
Service
Reserve
Deficiency
Account
to
be
equal
to
the
Bond
Debt
Service
Reserve
Fund
Requirement

11. The
amount
set
forth
in
item
9

of
Schedule
1
is
an
amount
(on
a
pro
rata
basis
with
the
amounts
set
forth
in
item
8
of
Schedule
1)
required
to
make
the
amount
on
deposit
(taking
into
account
the
undrawn
amount
of
any
letters
of
credit
posted
therein)
in
the
Term
Loan
Debt
Service
Reserve
Deficiency

Account
to
be
equal
to
the
Term
Loan
Debt
Service
Reserve
Fund
Requirement.

Dated:

____,

20__.

**MONTANA
RENEWABLES, LLC**

By:

Name:

|

Title:

|

|

135376969.9

D-3

▪

Schedule

1

to

the

Revenue

Account

Withdrawal

Requisition

Disbursements

from

Revenue

Account

To:

	Account	Amount
1	Operating and Maintenance Account	\$
2.	Bond Interest Sub-Account	\$
3.	Term Loan Interest Sub-Account	\$
4.	General Debt Interest Sub-Account	\$
5.	Bond Principal Sub-Account	\$
6.	Term Loan Principal Sub-Account	\$
7.	General Debt Principal Sub-Account	\$
8.	Bond Debt Service Reserve Deficiency Account	\$
9.	Term Loan Debt Service Reserve Deficiency Account	\$
10.	Surplus Account	\$

D-

4

EXHIBIT
E
FORM
OF
OPERATING
AND
MAINTENANCE
WITHDRAWAL
REQUISITION

To: Wilmington
Trust,
National
Association,
as Collateral
Trustee (the
"Collateral
Trustee")
Copy: Delaware
Trust
Company, as
Administrative
Agent
Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company")
and the
Collateral
Trustee.

Date:
[],
20[]

O&M
Withdrawal
Requisition
No.
[]

This
requisition
(this
“O&M
Withdrawal
Requisition”)
is
delivered
to
you
pursuant
to
Section
3.3(c)
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
the
Operating
and
Maintenance
Account,
to
the
extent
available,
in
accordance
with
the
instructions

set
forth
herein.
Capitalized
terms
used
but
not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

With
respect
to
this
O&M
Withdrawal
Requisition,
the
Company
hereby
certifies
that
set
forth
in
Annex
A
attached
hereto
is
the
following
information:
(a)

the
name
of
each
Person
to
whom
any
such
transfer
is
to
be
made,
(b)
the
amount
of
each
such
transfer,
(c)
the
date
of
each
such
transfer,
and
(d)
the
purpose
for
which
the
amount
so
transferred
is
to
be
applied
(if
not
evident
from
the
nature
of
the

payment
or
identity
of
the
intended
payee).

The
Company
hereby
instructs
the
Collateral
Trustee
to
transfer,
or
cause
to
be
transferred,
monies
on
deposit
in
the
Operating
and
Maintenance
Account
to
the
Operating
Account
in
the
aggregate
amount
or
as
otherwise
indicated
on
Annex
A
attached
hereto.
The

Company
certifies
such
instructions
are
in
accordance
with
the
applicable
provisions
of
the
Collateral
Trust
Agreement
and
further
certifies
in
relation
to
this
instruction
that
the
amounts
to
be
transferred
or
withdrawn
from
the
Operating
and
Maintenance
Account
to
pay
the
amounts
that
are
specified
in
Annex
A
on
the

dates
specified
in
such
paragraphs
constitute:
(i)
Administrative
Fees
and
Expenses
of
the
Parity
Lien
Secured
Parties,
and
(ii)
amounts
for
Operating
and
Maintenance
Expenses
due
and
payable
or
that
will
be
incurred
or
become
due
and
payable
during
the
following
35
days.

[Signature
Page
Follows]

E-

1

Yours
faithfully,

MONTANA RENEWABLES, LLC

By:

Authorized Representative of the Company

135376969.9

E-2

ANNEX

A

to

O&M

WITHDRAWAL
REQUISITION

NO.

INSTRUCTIONS

No.	Transfer Date	Amount	From	To	Purpose
[1.]	[Insert relevant date]	[\$[]]	Operating and Maintenance Account	[the Operating Account or insert other payment instructions]	

135376969.9

E-3

▪

EXHIBIT

E

FORM

OF

DEBT

SERVICE

WITHDRAWAL

REQUISITION

To: Wilmington
Trust,
National
Association,
as Collateral
Trustee (the
"Collateral
Trustee")

Copy: Delaware
Trust
Company, as
Administrative
Agent

Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company"),
and the
Collateral
Trustee.

Transfer

Date:

[]

[],

20[]

Debt

Service

Withdrawal

Requisition

No.

[]

This

requisition

(this

"Debt

Service

Withdrawal

Requisition")

is

delivered

to

you

pursuant

to

Section
3.4(c).
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
each
applicable
Debt
Service
Transfer
Account
to
be
made
on
[],
[],
20[]
(herein
referred
to
as
the
"Transfer
Date"),
to
the
extent
available,
in
accordance
with
the
instructions
set
forth
herein.
Capitalized
terms
used
but
not
defined

herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

With
respect
to
this
Debt
Service
Withdrawal
Requisition,
the
Company
hereby
certifies
(a)
the
Transfer
Date
is
a
Payment
Date
and
(b)
that
set
forth
in
Annex
A
attached
hereto
is
the
following

information:

(i)

the

name

of

each

applicable

Debt

Service

Transfer

Account

from

which

any

transfer

is

to

be

made

on

the

Transfer

Date

(ii)

the

name

of

each

applicable

holder

of

Indebtedness

to

whom

any

such

transfer

is

to

be

made,

(iii)

the

amount

of

each

such

transfer

and

(iv)

the
address
or
wire
transfer
instructions
required
for
each
such
transfer.

The
Company
hereby
instructs
the
Collateral
Trustee
to
transfer,
or
cause
to
be
transferred,
monies
on
deposit
in
each
applicable
Debt
Service
Transfer
Account
as
indicated
on
Annex
A
attached
hereto.
The
Company
certifies
such
instructions
are

in
accordance
with
the
applicable
provisions
of
the
Collateral
Trust
Agreement.

[Signature
Page
Follows]
F-
1

Yours
faithfully,

MONTANA RENEWABLES, LLC

By:

Authorized Representative of the Company

F-
2

ANNEX
A
to
DEBT
SERVICE
WITHDRAWAL

REQUISITION

NO.

INSTRUCTIONS

Transfer

Date:

[],

20[]

No.	Transfer Date	Amount	From	To
[1.]	[insert Transfer Date]	\$()	[insert the name of the applicable Debt Service Transfer Account]	[insert the name of the relevant holder of Indebtedness and such holder's wiring or other payment instructions]

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F-3

.

EXHIBIT

G

FORM

OF

INSURANCE/CONDEMNATION

AND

DISPOSITION

PROCEEDS

WITHDRAWAL

REQUISITION

To: Wilmington
Trust,
National
Association,
as Collateral
Trustee (the
"Collateral
Trustee")
Copy: Delaware
Trust
Company, as
Administrative
Agent
Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company")
and the
Collateral
Trustee.

Date:
[],
[],
20[]

Insurance/Condemnation
and
Disposition
Proceeds
Withdrawal
Requisition
No.
[]

This
requisition
(this
"Insurance/Condemnation
and
Disposition
Proceeds
Withdrawal
Requisition")
is
delivered
to
you
pursuant
to
Section
3.9(c).
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
the
Insurance/Condemnation
and
Disposition
Proceeds
Account,
to
the
extent
available,
in
accordance
with
the
instructions
set
forth
herein.
Capitalized
terms
used
but

not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

With
respect
to
this
Insurance/Condemnation
and
Disposition
Proceeds
Withdrawal
Requisition,
the
Company
hereby
certifies
that
set
forth
in
Annex
A
attached
hereto
is
the
following
information:
(a)
in
the
case
of

(i)
a
transfer
to
certain
payees
or
accounts
pursuant
to
Section
3.9(c).
(i)
of
the
Collateral
Trust
Agreement,
the
name
of
each
Person
to
whom
any
such
transfer
is
to
be
made
and
(ii)
a
transfer
to
a
Term
Lender
pursuant
to
Section
3.9(c).
(ii)
of
the
Collateral
Trust
Agreement,

the
name
of
the
applicable
Term
Lender
to
whom
any
such
transfer
is
to
be
made
(b)
the
amount
of
each
such
transfer,
(c)
the
date
of
each
such
transfer,
(d)
in
the
case
of
payment
to
a
Person,
the
address
or
wire
transfer
instructions
required
for
each
such
transfer

and
(e)
the
purpose
for
which
the
amount
so
transferred
is
to
be
applied
(if
not
evident
from
the
nature
of
the
payment
or
identity
of
the
intended
payee).

The
Company
hereby
instructs
the
Collateral
Trustee
to
transfer,
or
cause
to
be
transferred,
monies
on
deposit
in
the

Insurance/Condemnation
and
Disposition
Proceeds
Account
as
indicated
on
Annex
A
attached
hereto.
The
Company
certifies
such
instructions
are
in
accordance
with
the
applicable
provisions
of
the
Collateral
Trust
Agreement
and
further
certifies
in
relation
to
this
instruction
that
the
amounts
to
be
transferred
or
withdrawn
from
the
Insurance/Condemnation
and
Disposition

Proceeds
Account
to
pay
the
amounts
that
are
specified
in
Annex
A
on
the
dates
specified
in
such
paragraphs
constitute
amounts
for
the
account
of
applicable
payees
or
the
Term
G-
1

▪

Lenders,
in
each
case,
in
accordance
with
and
to
the
extent
permitted
under

each
Parity
Lien
Document.

[Signature
Page
Follows]

135376969.9

G-2

▪

Yours
faithfully,

MONTANA RENEWABLES, LLC

By:

Authorized Representative of the Company

135376969.9

G-3

▪

ANNEX
A
to
INSURANCE/CONDEMNATION
AND
DISPOSITION
PROCEEDS
WITHDRAWAL
REQUISITION
NO.

INSTRUCTIONS

No.	Transfer Date	Amount	From	To	Purpose ⁴
[1.]	[insert relevant date]	[\$[]]	Insurance/ Condemnation and Disposition Proceeds Account	[insert payee name and wiring or other payment instructions] / [insert name of Term Lender]	

⁴

Provide a purpose only if such amount is being paid to a payee pursuant to Section 3.8(c) (i) of the Collateral Trust Agreement.

135376969.9

G-4

EXHIBIT
H

FORM
OF
DEBT
PROCEEDS
WITHDRAWAL
REQUISITION

To: Wilmington
Trust,
National
Association,
as Collateral
Trustee (the
"Collateral
Trustee")
Copy: Delaware
Trust
Company, as
Administrative
Agent
Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company")
and the
Collateral
Trustee.

Date:
[]

[],
20[]

Debt
Proceeds
Withdrawal
Requisition
No.
[]

This
requisition
(this
"Debt
Proceeds
Withdrawal
Requisition")
is
delivered
to
you
pursuant
to
Section
3.10(c).
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
the
Debt
Proceeds
Account,
to
the
extent
available,
in
accordance
with
the
instructions
set

forth
herein.
Capitalized
terms
used
but
not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

With
respect
to
this
Debt
Proceeds
Withdrawal
Requisition,
the
Company
hereby
certifies
that
set
forth
in
Annex
A
attached
hereto
is
the
following
information:
(a)

to
the
extent
any
such
transfer
shall
be
made
to
a
Term
Lender
pursuant
to
Section
3.10(c).
(ii)
of
the
Collateral
Trust
Agreement,
the
name
of
the
applicable
Term
Lender
to
whom
any
such
transfer
is
to
be
made,
(b)
the
amount
of
each
such
transfer
and
(c)
the
date

of
each
such
transfer.

The
Company
hereby
instructs
the
Collateral
Trustee
to
transfer,
or
cause
to
be
transferred,
monies
on
deposit
in
the
Debt
Proceeds
Account
as
indicated
on
Annex
A
attached
hereto.
The
Company
certifies
such
instructions
are
in
accordance
with
the
applicable
provisions
of
the
Collateral

Trust
Agreement
and
further
certifies
in
relation
to
this
instruction
that
the
amounts
to
be
transferred
or
withdrawn
from
the
Debt
Proceeds
Account
to
pay
the
amounts
that
are
specified
in
Annex
A
on
the
dates
specified
in
such
paragraphs
constitute
amounts
for
the
account
of
the
Term
Lenders
or

are
to
be
deposited
into
the
Revenue
Account.

[Signature
Page
Follows]

H-
1

Yours
faithfully,

MONTANA RENEWABLES, LLC

By:

Authorized Representative of the Company

135376969.9

H-2

ANNEX

A
to
DEBT
PROCEEDS
WITHDRAWAL

REQUISITION
NO.

INSTRUCTIONS

No.	Transfer Date	Amount	From	To
[1.]	[insert relevant date]	\$()	Debt Proceeds Account	[Revenue Account] /[insert name of Term Lender]

135376969.9
H-3

.

EXHIBIT
I

FORM
OF
SURPLUS
WITHDRAWAL
REQUISITION

To: Wilmington
 Trust,
 National
 Association,
 as Collateral
 Trustee (the
 “Collateral
 Trustee”)
Copy: Delaware
 Trust
 Company, as
 Administrative
 Agent

Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company"),
and the
Collateral
Trustee.

Surplus
Requisition
No.
[REDACTED]

This
requisition
is
delivered
to
you
pursuant
to
Section
3.11(c)
of
the
Collateral
Trust
Agreement
and
covers
the
transfers
from
the

Surplus
Account,
to
the
extent
available,
in
accordance
with
the
instructions
set
forth
herein.
Capitalized
terms
used
but
not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

The
undersigned,
on
behalf
of
the
Company
hereby
requests
disbursement
from
the
Surplus
Account

established
under
the
Collateral
Trust
Agreement
on
the
[_____] ,
[_____] ,
20[_____] (such
date,
the
"Transfer
Date"),
the
amounts
to
the
payees
and
Trust
Accounts,
all
as
set
forth
on
Schedule
1
attached
hereto.

In
support
of
such
request,
the
undersigned,
on
behalf
of
the
Company,
hereby
represents
and
certifies

to
the
Collateral
Trustee
as
follows:

1. The
undersigned
is
an
Authorized
Company
Representative.

2. The
Transfer
Date
is
a
Monthly
Funding
Date
[and
Quarterly
Funding
Date]
[and,
with
respect
to
item
[]
of
Schedule
1,
is
a
Distribution
Date]⁵.

3. The
amount
set
forth
in
item
[]
of
Schedule

1
is
required
since
the
amounts
on
deposit
in
the
Revenue
Account
is
insufficient
to
make
the
transfers
set
forth
in
Section
3.2(c).
(i)
to
Section
3.2(c).
(v)
of
the
Collateral
Trust
Agreement
and
is
made
in
accordance
with
Section
3.3(f)
and
Section
3.11(c).
(i)
of
the
Collateral
Trust
Agreement.

4. The amount set forth in item [] of Schedule 1 is required to make the Excess Cash Flow Prepayment.

5 Insert if a Restricted Payment is expected to be made.
I-
1

5. The amount set forth in item [] of Schedule 1 is an amount

equal
to
scheduled
principal
and
interest
payable
under
the
Intercompany
Loan
Agreement,
and
each
of
the
applicable
conditions
to
the
making
of
such
payment
set
forth
in
each
of
the
Parity
Lien
Documents
have
been
(or
will
be)
satisfied
on
the
Transfer
Date.

6. The
amount
set
forth
in
item

[]
of
Schedule
1
is
an
amount
equal
to
the
Permitted
Tax
Payment
required
to
be
made
on
such
Quarterly
Funding
Date
pursuant
to
the
Organizational
Documents
of
Company
and
Holdings,
and
each
of
the
applicable
conditions
to
the
making
of
such
Permitted
Tax
Payment
set
forth
in
each
of

the
Parity
Lien
Documents
have
been
(or
will
be)
satisfied
on
the
proposed
Transfer
Date.

7. The amount set forth in item [] of Schedule 1 is a Restricted Payment, and each of the applicable conditions to the making of a Restricted Payment set forth in each of the Parity Lien Documents have been (or will be) satisfied on the Transfer Date.

[Signature]

*Pages
follow]*

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I-2

▪

Dated:

____,

20____.

**MONTANA
RENEWABLES, LLC**

By: _____

Name:

Title:

**[EACH PARITY LIEN
REPRESENTATIVE]**⁶

By: _____

Name:

Title:

⁶Note

to

Draft:

Certificate

to

be

countersigned

by

each

Parity

Lien

Representative

if
transfers
pursuant
to
3.10(c)
(iv)
or
(v)
are
contemplated.
I-
3

.

Schedule
1
to
the
Surplus
Account
Withdrawal
Requisition

No.	Transfer Date	Amount	From	To
1.	[insert relevant date]	[\$[]]	Surplus Account	[insert name of Trust Account]
2.	[insert relevant date]	[\$[]]	Surplus Account	[insert name of Term Lender]
4.	[insert relevant date]	[\$[]]	Surplus Account	[insert name of Payees]
5.	[insert relevant date]	[\$[]]	Surplus Account	[insert name of Payees]

6.	[insert relevant date]	\$([])	Surplus Account	[insert name of Payees]

I-

4

.

EXHIBIT

1

FORM

OF

DEBT

SERVICE

DEFICIENCY

CERTIFICATE

To: Wilmington
 Trust,
 National
 Association,
 as Collateral
 Trustee (the
 “Collateral
 Trustee”)

Copy: Delaware
 Trust
 Company, as
 Administrative
 Agent

Re: Collateral
Trust and
Intercreditor
Agreement,
dated April
19, 2023 (as
amended or
otherwise
modified from
time to time,
the "Collateral
Trust
Agreement"),
entered into
inter alios
Montana
Renewables,
LLC (the
"Company")
and the
Collateral
Trustee.

Debt
Service
Deficiency
Certificate
No.

This
certificate
is
delivered
to
you
pursuant
to
Section
3.4(d)
of
the
Collateral
Trust
Agreement.
Capitalized
terms
used
but

not
defined
herein
shall
have
the
respective
meanings
assigned
to
such
terms
in
the
Collateral
Trust
Agreement.

The
undersigned
hereby
notifies
the
Collateral
Trustee
that
the
balance
in
the
[insert
applicable
Debt
Service
Transfer
Account]
(the
"Applicable
Debt
Service
Account")
is
insufficient
to
pay
the
amounts
due
to
[insert

applicable
lender
or
other
Parity
Lien
Secured
Parties]
(the
"Applicable
Secured
Party")
on
[_____]]
[_____] ,
20[_____]]
(the
"Payment
Date").
The
amounts
due
to
the
Applicable
Secured
Party
on
the
Payment
Date
is
\$[_____]]
and
the
amounts
on
balance
in
the
Applicable
Debt
Service
Account
is
\$[_____]].
Pursuant
to
Section
3.4(d),

the
Collateral
Trustee
is
authorized
to
transfer
\$[]
from
[insert
name
of
Trust
Account]
to
the
[insert
applicable
Debt
Service
Transfer
Account],
and
we
hereby
request
the
Collateral
Trustee
to
effect
such
transfers
prior
to
the
Payment
Date.

[Signature
Pages
follow]

J-

1

.

Dated:

____,

20____.

[MONTANA
RENEWABLES, LLC]
[DELAWARE TRUST
COMPANY]
[BOND TRUSTEE]

By: _____

Name:

Title:

J-

2

.

Exhibit

10.3

AMENDMENT

NO.

1

TO

CREDIT

AGREEMENT

AMENDMENT

NO.

1

TO

CREDIT

AGREEMENT,

dated

as

of

April

4,

2023

(this

"Amendment"),

is

by

and

among
WELLS
FARGO
BANK,
NATIONAL
ASSOCIATION,
in
its
capacity
as
administrative
agent
pursuant
to
the
Credit
Agreement
(as
hereinafter
defined)
acting
for
and
on
behalf
of
the
parties
thereto
as
lenders
(in
such
capacity,
"Agent"),
the
parties
to
the
Credit
Agreement
as
lenders
(individually,
each
a
"Lender"
and

collectively,
"Lenders").
MONTANA
RENEWABLES
HOLDINGS
LLC,
a
Delaware
limited
liability
company
("Parent"),
MONTANA
RENEWABLES,
LLC,
a
Delaware
limited
liability
company
("Montana",
and
together
with
those
additional
Persons
that
are
joined
as
a
party
thereto
as
a
borrower,
each
individually
a
"Borrower"
and
collectively,
"Borrowers").

WITNESSETH

.

WHEREAS,
Agent,
Lenders
and
Borrowers
have
entered
into
financing
arrangements
pursuant
to
which
Lenders
(or
Agent
on
behalf
of
Lenders)
have
made
and
may
make
loans
and
advances
and
provide
other
financial
accommodations
to
Borrowers
as
set
forth
in
the
Credit
Agreement,
dated
as
of
November
2,
2022,

by
and
among
Agent,
Lenders
and
Borrowers
(as
the
same
now
exists
and
as
amended
and
supplemented
pursuant
hereto
and
as
may
hereafter
be
further
amended,
modified,
supplemented,
extended,
renewed,
restated
or
replaced
from
time
to
time,
the
“Credit
Agreement”)
and
the
other
Loan
Documents;

WHEREAS,
Borrower

has
requested
that
Agent
and
the
Required
Lenders
amend
certain
terms
and
provisions
of
the
Credit
Agreement,
and
Agent
and
the
Required
Lenders
have
agreed
to
make
such
amendments,
subject
to
the
terms
and
conditions
and
to
the
extent
set
forth
in
this
Amendment;

WHEREAS,

by
this

Amendment,
Agent,
Required
Lenders
and
Borrowers
desire
and
intend
to
evidence
such
amendments;

NOW
THEREFORE,
in
consideration
of
the
foregoing
and
the
mutual
agreements
and
covenants
contained
herein,
and
other
good
and
valuable
consideration,
the
receipt
and
sufficiency
of
which
are
hereby
acknowledged,
the
parties
hereto
agree

as
follows:

1.
Interpretation.
For
purposes
of
this
Amendment,
all
terms
used
herein
which
are
not
otherwise
defined
herein,
including
but
not
limited
to,
those
terms
used
in
the
recitals
hereto,
shall
have
the
respective
meanings
assigned
thereto
in
the
Credit
Agreement
as
amended
by
this
Amendment.

2.

Amendment

to

Credit

Agreement.

Clause

(t)

of

the

definition

of

"Permitted

Indebtedness"

in

the

Credit

Agreement

is

hereby

amended

by

deleting

therefrom

the

text

"\$100,000,000"

and

inserting

in

its

place

the

text

"\$150,000,000".

3.

Representations

and

Warranties.

Borrowers,

jointly

and

severally,

represent

and

warrant

with

and

to

Agent

and
Lenders
as
follows,
which
representations
and
warranties
shall
survive
the
execution
and
delivery
hereof:

(a)

no
Default
or
Event
of
Default
exists
or
has
occurred
and
is
continuing
as
of
the
date
of
this
Amendment;

(b)

this
Amendment
and
each
other
agreement
to
be
executed
and
delivered
by

Borrowers
in
connection
herewith
(together
with
this
Amendment,
the
"Amendment
Documents")
has
been
duly
executed
and
delivered
by
each
Borrower
and
is
the
legally
valid
and
binding
obligation
of
such
Borrower,
enforceable
against
such
Borrower
in
accordance
with
its
respective
terms,
except
as
enforcement
may
be
limited
by
equitable
principles

or
by
bankruptcy,
insolvency,
reorganization,

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▪

moratorium,
or
similar
laws
relating
to
or
limiting
creditors'
rights
generally;

(c)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents
to
which
it
is
a
party
have
been
duly
authorized
by
all
necessary

action
on
the
part
of
such
Borrower;

(d)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents

to
which
it
is
a
party
do
not
and
will
not

(i)
violate
any
material
provision
of
federal,
state,
or
local
law
or
regulation
applicable
to
any
payment Borrower
or

its
Subsidiaries,
the
Governing
Documents
of
any
Borrower
or
its
Subsidiaries,
or
any
order,
judgment,
or
decree
of
any
court
or
other
Governmental
Authority
binding
on
any
Borrower
or
its
Subsidiaries,
(ii) conflict
with,
result
in
a
breach
of,
or
constitute
(with
due
notice
or
lapse
of
time
or
both)
a

default
under
this
Plan
may
submit any
material
agreement
of
any
Borrower
or
its
Subsidiaries
where
any
such
conflict,
breach
or
default
could
individually
or
in
the
aggregate
reasonably
be
expected
to
have
a
claim Material
Adverse
Effect,
(iii) result
in
or
require
the
creation
or
imposition
of
any
Lien
of
any
nature

whatsoever
upon
any
assets
of
any
Borrower,
other
than
Permitted
Liens,
or
(iv)
require
any
approval
of
any
holder
of
Equity
Interests
of
a
Borrower
or
any
approval
or
consent
of
any
Person
under
any
material
agreement
of
any
Borrower,
other
than
consents
or
approvals
that
have
been
obtained
and

that
are
still
in
force
and
effect
and
except,
in
the
case
of
material
agreements,
for
consents
or
approvals,
the
failure
to
obtain
could
not
individually
or
in
the
aggregate
reasonably
be
expected
to
cause
a
Material
Adverse
Effect;
and

(e)

all
of
the
representations
and
warranties
set
forth

in
the
Credit
Agreement
and
the
other
Loan
Documents,
each
as
amended
hereby,
are
true
and
correct
in
all
material
respects
(except
that
such
materiality
qualifier
shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
materiality
in
the
text
thereof)
on
and
as

of
the
date
hereof,
as
though
made
on
and
as
of
the
date
hereof
(except
to
the
extent
that
such
representations
and
warranties
relate
solely
to
an
earlier
date,
in
which
case
such
representations
and
warranties
shall
be
true,
correct
and
complete
in
all
material
respects
(except
that
such
materiality

qualifier
shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
materiality
in
the
text
thereof)
as
of
such
earlier
date).

4.

Conditions
Precedent.
The
amendments
contained
herein
shall
only
be
effective
upon
the
satisfaction
of
each
of
the
following
conditions
precedent
in

a
manner
reasonably
satisfactory
to
Agent
or
waived
in
writing
by
Agent:

(a)

Agent
shall
have
received
counterparts
of
this
Amendment,
duly
authorized,
executed
and
delivered
by
Borrowers
and
Lenders;
and

(b)

no
Default
or
Event
of
Default
shall
exist
or
have
occurred
and
be
continuing
as
of
the

date
of
this
Amendment
and
immediately
after
giving
effect
to
this
Amendment.

5.

Effect
of
this
Amendment.
Except
as
expressly
set
forth
herein,
no
other
amendments,
changes
or
modifications
to
the
Committee
(or
its
authorized
delegate).
Such
claim
must
be
submitted
within
90
days Loan
Documents
are
intended
or
implied,

and
in
all
other
respects
the
Loan
Documents
are
hereby
specifically
ratified,
restated
and
confirmed
by
all
parties
hereto
as
of
the
earlier
of:

- i. the
date
the
claimant
learned
he
or
she
is
entitled
to
benefits
under
this
Plan,
or
- ii. the
date
the
claimant
learned
that
he
or
she

will Amendment
No.
1
Effective
Date
and
Borrowers
shall
not
be
entitled
to
any
benefits
under
this
Plan.
If
the
claim
is
denied
(in
full other
or
in
part),
the
claimant
will
be
provided
a
written
notice
explaining
the
specific
reasons
for
the
denial
and
referring
to further
amendment
by
virtue
of
the

provisions
of
this
Plan
on
which Amendment
or
with
respect
to
the
denial
is
based. subject
matter
of
this
Amendment.
To
the
extent
of
conflict
between
the
terms
of
this
Amendment
and
the
other
Loan
Documents,
the
terms
of
this
Amendment
shall
control.
The
notice
also
will
describe
any
additional
information
needed

to
support
the
claim Credit
Agreement
and
this
Plan's
procedures Amendment
shall
be
read
and
construed
as
one
agreement.

6.

Governing
Law.
The
validity,
interpretation
and
enforcement
of
this
Amendment
and
any
dispute
arising
out
of
the
relationship
between
the
parties
hereto
whether
in
contract,
tort,
equity
or

-2-

7406561.1

otherwise,
shall
be
governed
by
the
internal
laws
of
the
State
of
New
York
but
excluding
any
principles
of
conflicts
of
law
or
other
rule
of
law
that
would
cause
the
application
of
the
law
of
any
jurisdiction
other
than
the
laws
of
the
State
of

New
York.

7.

Binding
Effect.
This
Amendment
shall
be
binding
upon
and
inure
to
the
benefit
of
each
of
the
parties
hereto
and
their
respective
successors
and
assigns.

8.

Further
Assurances.
Borrowers
shall
execute
and
deliver
such
additional
documents
and
take
such
additional
action
as
may
be
reasonably
requested

by
Agent
to
effectuate
the
provisions
and
purposes
of
this
Amendment.

9.

Entire
Agreement.
This
Amendment
represents
the
entire
agreement
and
understanding
concerning
the
subject
matter
hereof
among
the
parties
hereto,
and
supersedes
all
other
prior
agreements,
understandings,
negotiations
and
discussions,
representations,
warranties,
commitments,
proposals,
offers
and
contracts
concerning

the
subject
matter
hereof,
whether
oral
or
written.

10.

Headings.

The
headings
listed
herein
are
for
appealing convenience
only
and
do
not
constitute
matters
to
be
construed
in
interpreting
this
Amendment.

11.

Counterparts.

This
Amendment,
any
documents
executed
in
connection
herewith
and
any
notices
delivered
under
this
Amendment,
may
be

executed
by
means
of
(i)
an
electronic
signature
that
complies
with
the
denial.
The
denial federal
Electronic
Signatures
in
Global
and
National
Commerce
Act,
state
enactments
of
the
Uniform
Electronic
Transactions
Act,
or
any
other
relevant
and
applicable
electronic
signatures
law;
(ii)
an
original
manual
signature;
or
(iii)
a
faxed,
scanned,

or
photocopied
manual
signature.
Each
electronic
signature
or
faxed,
scanned,
or
photocopied
manual
signature
shall
for
all
purposes
have
the
same
validity,
legal
effect,
and
admissibility
in
evidence
as
an
original
manual
signature.
Agent
reserves
the
right,
in
its
sole
discretion,
to
accept,
deny,
or
condition
acceptance
of
any
electronic

signature
on
this
Amendment
or
on
any
notice
delivered
to
Agent
under
this
Amendment.
This
Amendment
and
any
notices
delivered
under
this
Amendment
may
be
executed
in
any
number
of
counterparts,
each
of
which
shall
be
deemed
to
be
an
original,
but
such
counterparts
shall,
together,
constitute
only
one
instrument.

Delivery
of
an
executed
counterpart
of
a
signature
page
of
this
Amendment
and
any
notices
as
set
forth
herein
will
be
provided
within
90
days
after as
effective
as
delivery
of
a
manually
executed
counterpart
of
this
Amendment
or
any
such
notice.

[REMAINDER
OF
THIS
PAGE
INTENTIONALLY
LEFT
BLANK]

-3-

7406561.1

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

BORROWER: MONTANA
RENEWABLES,
LLC

By: /s/ Vincent

Donargo

Name: Vincent
Donargo

Title: Executive
Vice President
and Chief
Financial Officer

PARENT: MONTANA
RENEWABLES
HOLDINGS
LLC

By: /s/ Vincent

Donargo

Name: Vincent
Donargo

Title: Executive
Vice President
and Chief
Financial Officer

[Signature
Page to
Amendment
No. 1
(Montana
Renewables)]
7406561.1

AGENT WELLS FARGO BANK,
AND NATIONAL ASSOCIATION,
LENDERS: as Agent and as a Lender

By: /s/ Barry Felker

Name: Barry Felker

Title: Authorized
 Signatory

[Signature
Page to
Amendment
No. 1
(Montana
Renewables)]
7406561.1

Exhibit
10.4

AMENDMENT
NO.
2
TO
CREDIT
AGREEMENT
AND
AMENDMENT
NO.
1
TO
GUARANTY
AND
SECURITY
AGREEMENT

AMENDMENT
NO.
2
TO

CREDIT
AGREEMENT
AND
AMENDMENT
NO.
1
TO
GUARANTY
AND
SECURITY
AGREEMENT,
dated
as
of
April
19,
2023
(this
"Amendment
No.
2"),
is
received.
If
special
circumstances
require by
and
among
WELLS
FARGO
BANK,
NATIONAL
ASSOCIATION,
in
its
capacity
as
administrative
agent
pursuant
to
the
Credit
Agreement
(as
hereinafter
defined)

acting
for
and
on
behalf
of
the
parties
thereto
as
lenders
(in
such
capacity,
“Agent”),
the
parties
to
the
Credit
Agreement
as
lenders
(individually,
each
a
“Lender”
and
collectively,
“Lenders”),
MONTANA
RENEWABLES
HOLDINGS
LLC,
a
Delaware
limited
liability
company
(“Parent”),
MONTANA
RENEWABLES,
LLC,
a
Delaware
limited
liability
company

("Montana",
and
together
with
those
additional
Persons
that
are
joined
as
a
party
thereto
as
a
borrower,
each
individually
a
"Borrower"
and
collectively,
"Borrowers").

WITNESSETH

.

WHEREAS,

Agent,
Lenders
and
Borrowers
have
entered
into
financing
arrangements
pursuant
to
which
Lenders
(or
Agent
on
behalf
of
Lenders)
have

made
and
may
make
loans
and
advances
and
provide
other
financial
accommodations
to
Borrowers
as
set
forth
in
the
Credit
Agreement,
dated
as
of
November
2,
2022,
by
and
among
Agent,
Lenders
and
Borrowers
(as
the
same
now
exists
and
as
amended
and
supplemented
pursuant
hereto
and
as

may
hereafter
be
further
amended,
modified,
supplemented,
extended,
renewed,
restated
or
replaced
from
time
to
time,
the
"Credit
Agreement")
and
the
other
Loan
Documents;

WHEREAS,
Borrowers
have
granted
Agent,
for
the
benefit
of
itself
and
the
Lenders,
a
security
interest
in
the
Collateral
pursuant
to
that
certain

Guaranty
and
Security
Agreement,
dated
as
of
November
2,
2022,
by
Parent
and
Montana,
as
grantors,
in
favor
of
Agent
(as
the
same
now
exists
and
as
amended,
modified,
supplemented,
extended,
renewed,
restated
or
replaced
from
time
to
time,
the
“Guaranty
and
Security
Agreement”);
and

WHEREAS,
Borrower

has
requested
that
Agent
and
the
Required
Lenders
amend
certain
terms
and
provisions
of
the
Credit
Agreement,
Guaranty
and
Security
Agreement,
and
the
other
Loan
Documents,
and
Agent
and
the
Required
Lenders
have
agreed
to
make
such
amendments,
subject
to
the
terms
and
conditions
and
to
the
extent

set
forth
in
this
Amendment;

WHEREAS,
by
this
Amendment,
Agent,
Required
Lenders
and
Borrowers
desire
and
intend
to
evidence
such
amendments;

NOW
THEREFORE,
in
consideration
of
the
foregoing
and
the
mutual
agreements
and
covenants
contained
herein,
and
other
good
and
valuable
consideration,
the
receipt
and
sufficiency
of

which
are
hereby
acknowledged,
the
parties
hereto
agree
as
follows:

1.

Interpretation.

For
purposes
of
this
Amendment,
all
terms
used
herein
which
are
not
otherwise
defined
herein,
including
but
not
limited
to,
those
terms
used
in
the
recitals
hereto,
shall
have
the
respective
meanings
assigned
thereto
in
the
Credit

Agreement
as
amended
by
this
Amendment.

2.

Amendments
to
Credit
Agreement.

Subject
to
satisfaction
of
the
conditions
set
forth
in

Section

3

hereof,

the

Credit

Agreement,

including

the

Schedules

thereto,

is

hereby

amended

(x)

to

delete

the

red

or

green

stricken

text

(indicated

textually

in

the

same

manner

as

the
following
examples:
~~stricken~~
~~text~~and
~~stricken~~
~~text~~);
and
(y)
to
add
the
blue
or
green
double-
underlined
text
(indicated
textually
in
the
same
manner
as
the
following
examples:
double-
underlined
textand
double-
underlined
text),
in
each
case,
as
set
forth
in
the
marked
copy
of
the
Loan
Agreement
attached
as

Exhibit

A

hereto.

7424667.2

▪

3.

Amendments

to

Guaranty

and

Security

Agreement.

(a)

The

definition

of

“Collateral”

set

forth

in

Section

1(a)

(xvi)

of

the

Guaranty

and

Security

Agreement

is

hereby

amended

and

restated

in

its

entirety

to

read

as

follows:

“(xvi)”Collateral”

means

(i)

all
Accounts,
(ii)
all
cash
and
Cash
Equivalents
(other
than
any
right,
title
or
interest
in
or
to
(A)
the
Macquarie
Independent
Amount,
(B)
cash
or
Cash
Equivalents
in
the
Transfer
Account,
(C)
cash
or
Cash
Equivalents
in
the
Operating
Account,
(D)
the
Parity
Lien
Cash,
or
(E)

the
Stonebriar
Deposit
Amount),
(iii)
all
Deposit
Accounts
and
Securities
Accounts
containing
Proceeds
of
the
foregoing,
(iv)
all
General
Intangibles
relating
to
Accounts,
(v)
all
instruments
relating
to
Accounts,
(vi)
all
letter
of
credit
rights
in
respect
of
Accounts,
(vii)
all
Books,
Records,
ledger
cards,
files,
correspondence,
computer

programs,
tapes,
disks
and
related
data
processing
software
(owned
by
a
Grantor
or
in
which
it
has
an
extension interest)
that
at
any
time
evidence
or
contain
information
relating
to
any
"Collateral"
or
are
otherwise
necessary
or
helpful
in
the
collection
thereof
or
realization
thereupon,
and
(viii)
all
other

Proceeds
and
products,
whether
tangible
or
intangible,
of
any
of
the
foregoing
thereof
now
owned
or
hereafter
acquired
by
any
Grantor
or
its
Subsidiaries.”

(b)

The
definition
of
“Excluded
Deposit
Account”
set
forth
in
Section
1(a)
(xxvi)
of
the
Guaranty
and
Security
Agreement
is
hereby
amended
and
restated

in
its
entirety
to
read
as
follows:

“(xxvi)“Excluded

Deposit
Account”
means
(a)
one
or
more
accounts
exclusively
used
for
payroll,
payroll
taxes
or
employee
benefits,
(b)
the
Transfer
Account,
(c)
the
Operating
Account,
(d)
the
Parity
Lien
Deposit
Accounts,
(e)
other
accounts
containing
not
more
than
(x) \$250,000

in
any
single
account
or
(y)
\$500,000
in
aggregate
at
any
time,
and
(f)
the
deposit
account
number
ending
in
6935
maintained
with
Wells
Fargo
Bank,
N.A.,
holding
only
the
Stonebriar
Deposit
Amount."

(c)

Section
7(k)
(i)
of
the
Guaranty
and
Security
Agreement
is
hereby
amended
by
adding

the
following
sentence
to
the
end
thereof:
“For
the
avoidance
of
doubt,
the
transfer
of
cash
and
Cash
Equivalents
to
the
Transfer
Account
and
of
the
Parity
Lien
Cash
to
and
among
the
Parity
Lien
Deposit
Accounts
as
and
when
required
pursuant
to
the
Series
2023
Green
Bonds
Indenture,
the

Term
Loan
Documents,
or
the
Collateral
Trust
Agreement,
each
as
in
effect
on
or
in
substantially
the
form
identified
by
Montana
to
the
Administrative
Agent
in
writing
prior
to
the
Amendment
No.
2
Effective
Date,
is
consistent
with
such
reasonably
satisfactory
cash
management
services
arrangements.”

(d)

Section
7(k)
(iv)

of
the
Guaranty
and
Security
Agreement
is
hereby
amended
and
restated
in
its
entirety
to
read
as
follows:

"(iv)

Other
than
(i)
an
aggregate
amount
of
not
more
than
\$500,000
at
any
one
time,
in
the
case
of
Grantors
and
their
Subsidiaries
(other
than
those
Subsidiaries
that
are

CFCs),
(ii)
amounts
deposited
into
Deposit
Accounts
specially
and
exclusively
used
for
payroll,
payroll
taxes
and
other
employee
wage
and
benefit
payments
to
or
for
any
Grantor's
or
its
Subsidiaries'
employees,
(iii)
an
aggregate
amount
of
not
more
than
\$500,000
(calculated
at
current
exchange
rates)
at
any
one

time,
in
the
case
of
Subsidiaries
of
Grantors
that
are
CFCs,
(iv)
the
Macquarie
Independent
Amount,
(v)
the
Transfer
Account,
(vi)
the
Operating
Account,
(vii)
the
Parity
Lien
Cash,
or
(viii)
the
Stonebriar
Deposit
Amount,
no
Grantor
will,
and
no
Grantor
will
permit
its
Subsidiaries
to,
make,
acquire,

or
permit
to
exist
Permitted
Investments
consisting
of
cash,
Cash
Equivalents,
or
amounts
credited
to
Deposit
Accounts
or
Securities
Accounts
unless
Grantor
or
its
Subsidiary,
as
applicable,
and
the
applicable
bank
or
securities
intermediary
have
entered
into
Control
Agreements
with
Agent
governing
such
Permitted
Investments
in
order
to

perfect
(and
-2-
7424667.2

further
establish)
Agent's
Liens
in
such
Permitted
Investments."

(e)

Schedule
2
to
the
Guaranty
and
Security
Agreement
is
hereby
deleted
in
its
entirety
and
replaced
with
the
new
Schedule
2
attached
as
Exhibit
B
hereto.

4.
Representations
and
Warranties.

Borrowers,
jointly
and
severally,
represent
and
warrant
with
and
to
Agent
and
Lenders
as
follows,
which
representations
and
warranties
shall
survive
the
execution
and
delivery
hereof.

(a)

no
Default
or
Event
of
Default
exists
or
has
occurred
and
is
continuing
as
of
the
date
of
this
Amendment;

(b)

this

Amendment
and
each
other
agreement
to
be
executed
and
delivered
by
Borrowers
in
connection
herewith
(together
with
this
Amendment,
the
"Amendment
Documents")
has
been
duly
executed
and
delivered
by
each
Borrower
and
is
the
legally
valid
and
binding
obligation
of
such
Borrower,
enforceable
against
such
Borrower
in
accordance
with
its

respective
terms,
except
as
enforcement
may
be
limited
by
equitable
principles
or
by
bankruptcy,
insolvency,
reorganization,
moratorium,
or
similar
laws
relating
to
or
limiting
creditors'
rights
generally;

(c)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents
to
which
it
is
a
party
have
been
duly

authorized
by
all
necessary
action
on
the
part
of
such
Borrower;

(d)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents
to
which
it
is
a
party
do
not
and
will
not
(i)
violate
any
material
provision
of
federal,
state,
or
local
law
or
regulation
applicable

to
any
Borrower
or
its
Subsidiaries,
the
Governing
Documents
of
any
Borrower
or
its
Subsidiaries,
or
any
order,
judgment,
or
decree
of
any
court
or
other
Governmental
Authority
binding
on
any
Borrower
or
its
Subsidiaries,
(ii) conflict
with,
result
in
a
breach
of,
or
constitute
(with
due
notice
or
lapse
of

time
(up or
both)
a
default
under
any
material
agreement
of
any
Borrower
or
its
Subsidiaries
where
any
such
conflict,
breach
or
default
could
individually
or
in
the
aggregate
reasonably
be
expected
to
90
days),
written
notice have
a
Material
Adverse
Effect,
(iii) result
in
or
require
the
creation
or
imposition
of
any

Lien
of
any
nature
whatsoever
upon
any
assets
of
any
Borrower,
other
than
Permitted
Liens,
or
(iv)
require
any
approval
of
any
holder
of
Equity
Interests
of
a
Borrower
or
any
approval
or
consent
of
any
Person
under
any
material
agreement
of
any
Borrower,
other
than
consents
or
approvals
that

have
been
obtained
and
that
are
still
in
force
and
effect
and
except,
in
the
case
of
material
agreements,
for
consents
or
approvals,
the
failure
to
obtain
could
not
individually
or
in
the
aggregate
reasonably
be
expected
to
cause
a
Material
Adverse
Effect;
and

(e)

all
of
the
extension

will
be
given
within representations
and
warranties
set
forth
in
the
initial
90
day

period.
This
notice
of
extension
will
indicate
the
special
circumstances
requiring
the
extension
of
time Credit
Agreement
and
the
other
Loan
Documents,
each
as
amended
hereby,
are
true
and
correct
in
all
material
respects
(except
that

such
materiality
qualifier
shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
materiality
in
the
text
thereof)
on
and
as
of
the
date
hereof,
as
though
made
on
and
as
of
the
date
hereof
(except
to
the
extent
that
such
representations
and
warranties

relate
solely
to
an
earlier
date,
in
which
case
such
representations
and
warranties
shall
be
true,
correct
and
complete
in
all
material
respects
(except
that
such
materiality
qualifier
shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
which materiality
in
the
Committee
expects
to

render
its
decision
on
the
claim.

text
thereof)
as
of
such
earlier
date).

b) 5.

Appeal

Procedure Conditions

Precedent.

If The
amendments
contained
herein
shall
only
be
effective
upon
the
claimant's
claim
is
denied, satisfaction
of
each
of
the
claimant
(or
his following
conditions
precedent
in
a
manner
reasonably
satisfactory
to
Agent
or
her
authorized

representative)

may

apply waived

in

writing

by

Agent:

-3-

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▪

(a)

Agent

shall

have

received

counterparts

of

this

Amendment,

duly

authorized,

executed

and

delivered

by

Borrowers

and

Lenders;

(b)

Agent

shall

have

received

an

intercreditor

agreement,

in

form

and

substance

satisfactory

to

Agent,

in

respect

of

the

Liens

of
the
Parity
Lien
Collateral
Trustee
(as
defined
in
the
Credit
Agreement,
as
amended
hereby),
duly
executed
by
the
Parity
Lien
Collateral
Trustee
(as
defined
in
the
Credit
Agreement,
as
amended
hereby);
and

(c)

no
Default
or
Event
of
Default
shall
exist
or
have
occurred
and
be
continuing
as
of
the
date
of
this

Amendment
and
immediately
after
giving
effect
to
this
Amendment.

6.

Effect
of
this
Amendment.

Except
as
expressly
set
forth
herein,
no
other
amendments,
changes
or
modifications

to
the
Committee
for
a

review Loan
Documents
are

intended
or
implied,

and
in

all
other
respects

the
Loan
Documents
are
hereby
specifically
ratified,
restated

and
confirmed
by
all
parties
hereto
as
of
the
decision
denying
the
claim.
Review
must Amendment
No.
2
Effective
Date
and
Borrowers
shall
not
be
requested
within
60
days
following
the
date
the
claimant
received
the
written
notice entitled
to
any
other
or
further
amendment
by
virtue
of
their
claim
denial
or

else
the
claimant
loses
the
right
to
review.
The
claimant
(or
representative)
then
has
the
right
to
review
and
obtain
copies
of
all
documents
and
other
information
relevant
to
the
claim,
upon
request
and
at
no
charge,
and
to
submit
issues
and
comments
in
writing.
The
Committee
will
provide
written

notice
of
its
decision
on
review
within
60
days
after
it
receives
a
review
request.
If
additional
time
(up
to
60
days)
is
needed
to
review
the
request,
the
claimant
(or
representative)
will
be
given
written
notice
of
the
reason
for
the
delay.
This
notice
of
extension
will
indicate
the

special
circumstances
requiring
the
extension
of
time
and
the
date
by
which
the
Committee
expects
to
render
its
decision.
If
the
claim
is
denied
(in
full
or
in
part),
the
claimant
will
be
provided
a
written
notice
explaining
the
specific
reasons
for
the
denial
and
referring
to
the
provisions
of

this
Plan
on
which
the
denial
is
based.
The
notice
also
will
include
a
statement
that
the
claimant
will
be
provided,
upon
request
and
free
of
charge,
reasonable
access
to,
and
copies
of,
all
documents
and
other
information
relevant
to
the
claim
and
a
statement
regarding
the
claimant's
right
to

bring
an
action
under
Section
502(a)
of
ERISA.

Section
18.
Certain
Excise
Taxes.

Notwithstanding
anything
to
the
contrary
in
this
Plan,
if
a
Covered
Executive
is
a
"disqualified
individual"
(as
defined
in
Section
280G(c)
of
the
Code),
and
the
Plan
Benefit
provided
for
under
this
Plan,
together

with
any
other
payments
and
benefits
which
the
Covered
Executive
has
the
right
to
receive
from
the
Employer Amendment
or
any
other
Person,
would
constitute
a
"parachute
payment"
(as
defined
in
Section
280G(b)
(2)
of
the
Code),
then
the
Plan
Benefit
provided
for
under
this
Plan
shall
be
either
(a)
reduced

(but
not
below
zero)
so
that
the
present
value
of
such
total
amounts
and
benefits
received
by
the
Covered
Executive
will
be
\$1.00
less
than
three
times
the
Covered
Executive's
"base
amount"
(as
defined
in
Section
280G(b)
(3)
of
the
Code)
and
so
that
no
portion
of
such
amounts
and

benefits
received
by
the
Covered
Executive
shall
be
subject
to
the
excise
tax
imposed
by
Section
4999
of
the
Code,
or
(b)
paid
in
full,
whichever
produces
the
better
net
after-
tax
position
to
the
Covered
Executive
(taking
into
account
any
applicable
excise
tax
under
Section
4999
of
the
Code

and
any
other
applicable
taxes).
The
determination
as
to
whether
any
such
reduction
in
the
amount
of
the
payments
provided
hereunder
is
necessary
shall
be
made
by
the
Employer
in
good
faith.
If
a
reduced
payment
is
made
or
provided
and
through
error
or
otherwise
that
payment,
when
aggregated
with

other
payments
and
benefits
used
in
determining
if
a
parachute
payment
exists,
exceeds
\$1.00
less
than
three
times
the
Covered
Executive's
base
amount,
then
the
Covered
Executive
shall
immediately
repay
such
excess
to
the
Employer
upon
notification
that
an
overpayment
has
been
made.
Nothing
in
this
Plan
shall
require
the

Employer
to
be
responsible
for,
or
have
any
liability
or
obligation
with
respect
to
the
Covered
Executive's
excise
tax
liabilities
under
Section
4999 subject
matter
of
this
Amendment.
To
the
extent
of
conflict
between
the
terms
of
this
Amendment
and
the
other
Loan
Documents,
the
terms
of
this
Amendment
shall
control.

The
Credit
Agreement
and
this
Amendment
shall
be
read
and
construed
as
one
agreement.

7.
Governing
Law.
The
validity,
interpretation
and
enforcement
of
this
Amendment
and
any
dispute
arising
out
of
the
Code.

Exhibit

A

Plan

Benefits

1. Cash

Payment. relationship
between
the
parties
hereto
whether
in
contract,
tort,

equity
or
otherwise,
shall
be
governed
by
the
internal
laws
of
the
State
of
New
York
but
excluding
any
principles
of
conflicts
of
law
or
other
rule
of
law
that
would
cause
the
application
of
the
law
of
any
jurisdiction
other
than
the
laws
of
the
State
of
New
York.

An amount 8.

Binding

Effect.

This

Amendment

shall

be

binding

upon

and

inure

to

the

benefit

of

each

of

the

parties

hereto

and

their

respective

successors

and

assigns.

9.

Further

Assurances.

Borrowers

shall

execute

and

deliver

such

additional

documents

and

take

such

additional

action

as

may

be

reasonably

requested

by

Agent

to
effectuate
the
provisions
and
purposes
of
this
Amendment.

10.

Entire
Agreement.
This
Amendment
represents
the
entire
agreement
and
understanding
concerning
the
subject
matter
hereof
among
the
parties
hereto,
and
supersedes
all
other
prior
agreements,
understandings,
negotiations
and
discussions,
representations,
warranties,
commitments,
proposals,
offers
and
contracts
concerning
the
subject

matter
hereof,
whether
oral
or
written.

11.

Headings.
The
headings
listed
herein
are
for
convenience
only
and
do
not
constitute
matters
to
be
construed
in
cash,
payable interpreting
this
Amendment.

12.

Counterparts.
This
Amendment,
any
documents
executed
in
connection
herewith
and
any
notices
delivered
under
this
Amendment,
may
be
executed

by
means
of
(i)
an
electronic
signature
that
complies
with
the
federal
Electronic
Signatures
in
Global
and
National
Commerce
Act,
state
enactments
of
the
Uniform
Electronic
Transactions
Act,
or
any
other
relevant
and
applicable
electronic
signatures
law;
(ii)
an
original
manual
signature;
or
(iii)
a
faxed,
scanned,
or
photocopied
manual

signature.
Each
electronic
signature
or
faxed,
scanned,
or
photocopied
manual
signature
shall
for
all
purposes
have
the
same
validity,
legal
effect,
and
admissibility
in
evidence
as
an
original
manual
signature.
Agent
reserves
the
right,
in
its
sole
discretion,
to
accept,
deny,
or
condition
acceptance
of
any
electronic
signature
on
this

Amendment
or
on
any
notice
delivered
to
Agent
under
this
Amendment.
This
Amendment
and
any
notices
delivered
under
this
Amendment
may
be
executed
in
any
number
of
counterparts,
each
of
which
shall
be
deemed
to
be
an

-4-

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original,
but
such
counterparts
shall,
together,

constitute
only
one
instrument.
Delivery
of
an
executed
counterpart
of
a
signature
page
of
this
Amendment
and
any
notices
as
set
forth
herein
will
be
as
effective
as
delivery
of
a
manually
executed
counterpart
of
the
Amendment
No.
2
or
notice.

[REMAINDER
OF
THIS
PAGE
INTENTIONALLY
LEFT
BLANK]

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

BORROWER: MONTANA
RENEWABLES,
LLC

By: /s/ Vincent

Donargo

Name: Vincent

Donargo

Title: Executive
Vice President
and Chief
Financial Officer

PARENT: MONTANA
RENEWABLES
HOLDINGS
LLC

By: /s/ Vincent
Donargo

Name: Vincent
Donargo

Title: Executive
Vice President
and Chief
Financial Officer

[Signature
Page to
Amendment
No. 2
(Montana
Renewables)]

AGENT WELLS FARGO BANK, NATIONAL
AND ASSOCIATION, as Agent and as a
LENDERS: Lender

By: /s/ Barry
 Felker
Name: Barry Felker

Title: Authorized Signatory

[Signature
Page to
Amendment
No. 2
(Montana
Renewables)]

.

Exhibit
A
to
Amendment
No.
2

[See
Attached]

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.

Exhibit
B
to
Amendment
No.
2

SCHEDULE

2

TO

GUARANTY

AND

SECURITY

AGREEMENT

DEPOSIT

ACCOUNTS

AND

SECURITIES

ACCOUNTS

Wells

Fargo

Accounts

Account

number

#####6943

Legal title

Montana

Renewables

LLC

/

Collection

Account

Routing/Transit

number

121000248

Wire ABA

121000248

Swift

WFBIUS6S

Account notes

U.S.

Dollar

Wire

Bank

Name/Address:

Wells

Fargo

Bank

N.A.

420

Montgomery

St.

San
Francisco,
CA
94104

Account number
#####7111
Legal title
Montana
Renewables
LLC
/
Transfer
Account
Routing/Transit
number
121000248
Wire ABA
121000248
Swift
WFBIUS6S
Account notes
U.S.
Dollar
Wire
Bank
Name/Address: Wells
Fargo
Bank
N.A.

420
Montgomery
St.
San
Francisco,
CA
94104

Account number
#####6935
Legal title
Montana
Renewables
LLC
/
Operating
Account
Routing/Transit
number
121000248

Wire ABA
121000248
Swift
WFBIUS6S
Account notes
U.S.
Dollar
Wire
Bank
Name/Address: Wells
Fargo
Bank
N.A.
420
Montgomery
St.
San
Francisco,
CA
94104
7424667.2

Account number
#####2976
Legal title
Montana
Renewables
LLC
/
Stonebriar
Collateral
Account
Routing/Transit
number
121000248
Wire ABA
121000248
Swift
WFBIUS6S
Account notes
U.S.
Dollar
Wire

Bank
Name/Address: Wells
Fargo
Bank
N.A.

420
Montgomery
St.
San
Francisco,
CA
94104

Parity
Lien
Deposit
Accounts
(Notwithstanding
the
description
of
Schedule
2,
the
below
Parity
Lien
Deposit
Accounts
(as
defined
in
the
Collateral
Trust
Agreement)
disclosed
by
the
Employer Company
are
held
in
lump
sum
promptly the
name
of
Wilmington
Trust,

National
Association
for
the
benefit
of
the
Company)

Depository:
Wilmington

Trust,
National
Association
1
Light
Street,
14th
Floor

Baltimore,
Maryland
21202

Attention:

Joy
Holloway

Phone:

804-
754-
4809

Email:

jeholloway@wilmingtontrust.com

<u>Designation</u>	<u>For Benefit</u> <u>of</u>	<u>Last</u> <u>Four</u> <u>Digits of</u> <u>Account</u> <u>Number</u>
1) Montana Renewable LLC Project Revenue Account	Parity Lien Debtholders	7000

2)	Montana Renewable LLC Project Operating and Maintenance Account	Parity Lien Debtholders	7001
3)	Montana Renewable LLC Project Rebate Transfer Account	Series 2023 Bondholders	7017
4)	Montana Renewable LLC Bond Debt Service Transfer Account	Series 2023 Bondholders	7002
5)	Montana Renewable LLC Bond Principal Sub- Account	Series 2023 Bondholders	7004
6)	Montana Renewable LLC Bond Interest Sub- Account	Series 2023 Bondholders	7003
7)	Montana Renewable LLC Term Loan Debt Service Transfer Account	Term Loan Administrative Agent and Term Lenders	7005

8)	Montana Renewable LLC Term Loan Interest Sub- Account	Term Loan Administrative Agent and Term Lenders	7006
9)	Montana Renewable LLC Term Loan Principal Sub- Account	Term Loan Administrative Agent and Term Lenders	7007
10)	Montana Renewable LLC General Debt Service Transfer Account	Parity Lien Debtholders	7008

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▪

<u>Designation</u>	<u>For Benefit</u> <u>of</u>	<u>Last</u> <u>Four</u> <u>Digits of</u> <u>Account</u> <u>Number</u>
11) Montana Renewable LLC General Debt Interest Sub- Account	Parity Lien Debtholders	7009
12) Montana Renewable LLC General Debt Principal Sub- Account	Parity Lien Debtholders	7010

13) Montana Renewable LLC Bond Debt Service Reserve Deficiency Account	Series 2023 Bondholders	7011
14) Montana Renewable LLC Term Loan Debt Service Reserve Deficiency Account	Term Loan Administrative Agent and Term Lenders	7012
15) Montana Renewable LLC Term Loan IDC Reserve Account	Term Loan Administrative Agent and Term Lenders	7013
16) Montana Renewable LLC Insurance/Condemnation and Disposition Proceeds Account	Parity Lien Debtholders	7014
17) Montana Renewable LLC Debt Proceeds Account	Parity Lien Debtholders	7015
18) Montana Renewable LLC Surplus Account	Parity Lien Debtholders	7016

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Exhibit

10.5

AMENDMENT

NO.

3

TO

CREDIT

AGREEMENT

AMENDMENT

NO.

3

TO

CREDIT

AGREEMENT,

dated

as

of

July

2023

(this

"Amendment"),

is

by

and

among

WELLS

FARGO

BANK,

NATIONAL

ASSOCIATION,

in

its

capacity

as

administrative

agent

pursuant

to

the

Credit

Agreement

(as

hereinafter

defined)

acting

for

and

on
behalf
of
the
parties
thereto
as
lenders
(in
such
capacity,
"Agent"),
the
parties
to
the
Credit
Agreement
as
lenders
(individually,
each
a
"Lender"
and
collectively,
"Lenders"),
MONTANA
RENEWABLES
HOLDINGS
LLC,
a
Delaware
limited
liability
company
("Parent"),
MONTANA
RENEWABLES,
LLC,
a
Delaware
limited
liability
company
("Montana",
and
together
with
those

additional
Persons
that
are
joined
as
a
party
thereto
as
a
borrower,
each
individually
a
"Borrower"
and
collectively,
"Borrowers").

WITNESSETH

:

WHEREAS,

Agent,
Lenders
and
Borrowers
have
entered
into
financing
arrangements
pursuant
to
which
Lenders
(or
Agent
on
behalf
of
Lenders)
have
made
and
may
make
loans
and
advances

and
provide
other
financial
accommodations
to
Borrowers
as
set
forth
in
the
Credit
Agreement,
dated
as
of
November
2,
2022,
by
and
among
Agent,
Lenders
and
Borrowers
(as
the
same
now
exists
and
as
amended
and
supplemented
pursuant
hereto
and
as
may
hereafter
be
further
amended,
modified,
supplemented,
extended,
renewed,

restated
or
replaced
from
time
to
time,
the
“Credit
Agreement”
and
the
other
Loan
Documents;

WHEREAS,
Borrower
has
requested
that
Agent
and
the
Required
Lenders
amend
certain
terms
and
provisions
of
the
Credit
Agreement,
and
Agent
and
the
Required
Lenders
have
agreed
to
make
such
amendments,
subject
to
the

terms
and
conditions
and
to
the
extent
set
forth
in
this
Amendment;

WHEREAS,

by
this
Amendment,
Agent,
Required
Lenders
and
Borrowers
desire
and
intend
to
evidence
such
amendments;

NOW

THEREFORE,
in
consideration
of
the
foregoing
and
the
mutual
agreements
and
covenants
contained
herein,
and
other
good
and
valuable
consideration,

the
receipt
and
sufficiency
of
which
are
hereby
acknowledged,
the
parties
hereto
agree
as
follows:

1.

Interpretation.

For
purposes
of
this
Amendment,
all
terms
used
herein
which
are
not
otherwise
defined
herein,
including
but
not
limited
to,
those
terms
used
in
the
recitals
hereto,
shall
have
the
respective
meanings

assigned
thereto
in
the
Credit
Agreement
as
amended
by
this
Amendment.

2.
Amendment
to
Credit
Agreement.
Clause
(c)
of
the
definition
of
"Borrowing
Base"
set
forth
in
Section
1.1
of
the
Credit
Agreement
is
hereby
amended
and
restated
in
its
entirety
to
read
as
follows:

"(c)

The
least
of,

as
of
any
date
of
determination,
(i)
90%
of
the
amount
of
Eligible
Blenders
Tax
Credit
Accounts,
(ii)
\$30,000,000,
and
(iii)
with
respect
to
the
period
commencing
on
October
1,
2023
and
continuing
at
all
times
thereafter,
an
amount
equal
to
40%
of
the
Line
Cap.
less"

3.

Representations

and
Warranties.
Borrowers,
jointly
and
severally,
represent
and
warrant
with
and
to
Agent
and
Lenders
as
follows,
which
representations
and
warranties
shall
survive
the
execution
and
delivery
hereof.

(a)

no
Default
or
Event
of
Default
exists
or
has
occurred
and
is
continuing
as
of
the
date
of
this
Amendment;

(b)

this

Amendment
and
each
other
agreement
to
be
executed
and
delivered
by

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▪

Borrowers
in
connection
herewith
(together
with
this
Amendment,
the
"Amendment
Documents")
has
been
duly
executed
and
delivered
by
each
Borrower
and
is
the
legally
valid
and
binding
obligation
of
such
Borrower,
enforceable
against
such
Borrower
in

accordance
with
its
respective
terms,
except
as
enforcement
may
be
limited
by
equitable
principles
or
by
bankruptcy,
insolvency,
reorganization,
moratorium,
or
similar
laws
relating
to
or
limiting
creditors'
rights
generally;

(c)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents
to
which
it
is
a
party
have
been
duly
authorized
by

all
necessary
action
on
the
part
of
such
Borrower;

(d)

the
execution,
delivery,
and
performance
by
each
Borrower
of
the
Amendment
Documents
to
which
it
is
a
party
do
not
and
will
not
(i)
violate
any
material
provision
of
federal,
state,
or
local
law
or
regulation
applicable
to
any
Borrower
or
its
Subsidiaries,
the

Governing
Documents
of
any
Borrower
or
its
Subsidiaries,
or
any
order,
judgment,
or
decree
of
any
court
or
other
Governmental
Authority
binding
on
any
Borrower
or
its
Subsidiaries,
(ii) conflict
with,
result
in
a
breach
of,
or
constitute
(with
due
notice
or
lapse
of
time
or
both)
a
default
under
any
material
agreement
of
any
Borrower

or
its
Subsidiaries
where
any
such
conflict,
breach
or
default
could
individually
or
in
the
aggregate
reasonably
be
expected
to
have
a
Material
Adverse
Effect,
(iii) result
in
or
require
the
creation
or
imposition
of
any
Lien
of
any
nature
whatsoever
upon
any
assets
of
any
Borrower,
other
than
Permitted
Liens,
or
(iv)
require
any
approval

of
any
holder
of
Equity
Interests
of
a
Borrower
or
any
approval
or
consent
of
any
Person
under
any
material
agreement
of
any
Borrower,
other
than
consents
or
approvals
that
have
been
obtained
and
that
are
still
in
force
and
effect
and
except,
in
the
case
of
material
agreements,
for
consents
or
approvals,
the
failure

to
obtain
could
not
individually
or
in
the
aggregate
reasonably
be
expected
to
cause
a
Material
Adverse
Effect;
and

(e)

all
of
the
representations
and
warranties
set
forth
in
the
Credit
Agreement
and
the
other
Loan
Documents,
each
as
amended
hereby,
are
true
and
correct
in
all
material
respects
(except
that
such
materiality
qualifier

shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
materiality
in
the
text
thereof)
on
and
as
of
the
date
hereof,
as
though
made
on
and
as
of
the
date
hereof
(except
to
the
extent
that
such
representations
and
warranties
relate
solely
to
an
earlier
date,
in
which

case
such
representations
and
warranties
shall
be
true,
correct
and
complete
in
all
material
respects
(except
that
such
materiality
qualifier
shall
not
be
applicable
to
any
representations
and
warranties
that
already
are
qualified
or
modified
by
materiality
in
the
text
thereof)
as
of
such
earlier
date).

4.

Conditions
Precedent.
The
amendments
contained
herein

shall
only
be
effective
upon
the
satisfaction
of
each
of
the
following
conditions
precedent
in
a
manner
reasonably
satisfactory
to
Agent
or
waived
in
writing
by
Agent:

(a)

Agent
shall
have
received
counterparts
of
this
Amendment,
duly
authorized,
executed
and
delivered
by
Borrowers
and
Lenders;
and

(b)

no
Default
or
Event

of
Default
shall
exist
or
have
occurred
and
be
continuing
as
of
the
date
of
this
Amendment
and
immediately
after
giving
effect
to
this
Amendment.

5.

Effect
of
this
Amendment.
Except
as
expressly
set
forth
herein,
no
other
amendments,
changes
or
modifications
to
the
Loan
Documents
are
intended
or
implied,
and

in
all
events
within
30
days
following other
respects
the
Loan
Documents
are
hereby
specifically
ratified,
restated
and
confirmed
by
all
parties
hereto
as
of
the
date
on
which hereof
and
Borrowers
shall
not
be
entitled
to
any
other
or
further
amendment
by
virtue
of
the
Separation
Agreement
required
by
Section
3(c)

becomes
effective
and
irrevocable,
equal provisions
of
this
Amendment
or
with
respect
to
the
sum subject
matter
of
this
Amendment.
To
the
extent
of
conflict
between
the
terms
of
this
Amendment
and
the
other
Loan
Documents,
the
terms
of
this
Amendment
shall
control.
The
Credit
Agreement
and
this
Amendment
shall
be
read

and
construed
as
one
agreement.

-2-

7554311.2

6.
Governing
Law.
The
validity,
interpretation
and
enforcement
of
this
Amendment
and
any
dispute
arising
out
of
the
Covered
Executive's relationship
between
the
parties
hereto
whether
in
contract,
tort,
equity
or
otherwise,
shall
be
governed
by
the
internal
laws

of
the
State
of
New
York
but
excluding
any
principles
of
conflicts
of
law
or
other
rule
of
law
that
would
cause
the
application
of
the
law
of
any
jurisdiction
other
than
the
laws
of
the
State
of
New
York.

7.

Binding
Effect.
This
Amendment
shall
be
binding
upon

and
inure
to
the
benefit
of
each
of
the
parties
hereto
and
their
respective
successors
and
assigns.

8.

Further
Assurances.
Borrowers
shall
execute
and
deliver
such
additional
documents
and
take
such
additional
action
as
may
be
reasonably
requested
by
Agent
to
effectuate
the
provisions
and
purposes
of
this
Amendment.

9.

Entire

Agreement.

This

Amendment

represents

the

entire

agreement

and

understanding

concerning

the

subject

matter

hereof

among

the

parties

hereto,

and

supersedes

all

other

prior

agreements,

understandings,

negotiations

and

discussions,

representations,

warranties,

commitments,

proposals,

offers

and

contracts

concerning

the

subject

matter

hereof,

whether

oral

or

written.

10.

Headings.

The

headings
listed
herein
are
for
convenience
only
and
do
not
constitute
matters
to
be
construed
in
interpreting
this
Amendment.

11.

Counterparts.

This
Amendment,
any
documents
executed
in
connection
herewith
and
any
notices
delivered
under
this
Amendment,
may
be
executed
by
means
of
(i)
Base
Pay
plus an
electronic
signature
that

complies
with
the
federal
Electronic
Signatures
in
Global
and
National
Commerce
Act,
state
enactments
of
the
Uniform
Electronic
Transactions
Act,
or
any
other
relevant
and
applicable
electronic
signatures
law;
(ii)
Bonus,
multiplied
by
an
original
manual
signature;
or
(iii)
a
faxed,
scanned,
or
photocopied
manual
signature.
Each
electronic
signature
or

faxed,
scanned,
or
photocopied
manual
signature
shall
for
all
purposes
have
the
multiple same
validity,
legal
effect,
and
admissibility
in
evidence
as
an
original
manual
signature.
Agent
reserves
the
right,
in
its
sole
discretion,
to
accept,
deny,
or
condition
acceptance
of
any
electronic
signature
on
this
Amendment
or
on
any
notice

delivered
to
Agent
under
this
Amendment.
This
Amendment
and
any
notices
delivered
under
this
Amendment
may
be
executed
in
any
number
of
counterparts,
each
of
which
shall
be
deemed
to
be
an
original,
but
such
counterparts
shall,
together,
constitute
only
one
instrument.
Delivery
of
an
executed
counterpart
of
a
signature

page
of
this
Amendment
and
any
notices
as
set
forth
below
for herein
will
be
as
effective
as
delivery
of
a
manually
executed
counterpart
of
this
Amendment
or
any
such
notice.

[REMAINDER
OF
THIS
PAGE
INTENTIONALLY
LEFT
BLANK]

-3-

7554311.2

▪

IN
WITNESS

WHEREOF,

the

Covered

Executive's

role; parties

hereto

have

caused

this

Amendment

to

be

duly

executed

and

delivered

by

their

authorized

officers

as

of

the

day

and

year

first

above

written.

Position

Cash

Payment

Multiple

Chief

1.5X

Executive

MONTANA

Officer

RENEWABLES,

BORROWER;

LLC

All Other

1.0X

Covered

Executives

By: /s/ Vincent

Donargo

Name: Vincent

Donargo

Title: Executive

Vice President

and Chief

Financial Officer

**PARENT: MONTANA
RENEWABLES
HOLDINGS
LLC**

By: /s/ Vincent

Donargo

Name: Vincent

Donargo

Title: Executive

Vice President

and Chief

Financial Officer

Notwithstanding

the
foregoing,
if
the
period
within
which
a
Covered
Executive
could

execute
and
revoke
the
Separation
Agreement
spans
two
calendar
years,
the
Plan
Benefit
hereunder
shall
be
payable
in
the
second
calendar
year.

**2. Other
Benefits.**

a) Continued
medical,
dental
and
vision
benefits
coverage
for
the
Covered
Executive
and
his
or
her
covered
dependents
for
12
months
following
the
date
of

termination
at
the
Employer's
expense;
provided,
that
if
the
continued
coverage
contemplated
hereunder
cannot
be
provided
under
applicable
Employer
plans
or
policies
or
would
be
discriminatory
and
would
result
in
the
imposition
of
excise
taxes
or
other
liabilities
on
the
Employer
or
its
subsidiaries
for
failure
to
comply
with
any

requirements
of
the
Patient
Protection
and
Affordable
Care
Act
of
2010,
as
amended,
and
the
Health
Care
and
Education
Reconciliation
Act
of
2010,
as
amended
(to
the
extent
applicable),
or
other
applicable
law,
the
Covered
Executive
shall
instead
receive
a
lump
sum
cash
payment
equal
to
the
monthly
COBRA
premium

amount
for
the
Covered
Executive
and
his
or
her
covered
dependents'
continuation
of
medical,
dental
and
vision
coverage
multiplied
by
12,
less
any
months
of
coverage
previously
provided.

b) Reimbursement

for
the
cost
of
outplacement
services
with
a
provider
designated
by
the
Employer,
provided
that
the
cost
of
such
reimbursement

shall
not
exceed
\$10,000
and
such
services
must
be
provided
within
six
months
following
the
Qualifying
Termination.

c) All
outstanding,
unvested
time-
based
and
performance-
based
equity
or
equity-
based
incentives
granted
under
the
LTIP
held
by
the
Covered
Executive
shall
accelerate
and
vest
in
full
effective
as
of
immediately

prior
to
such
Qualifying
Termination.
For
purposes
hereof,
performance-
based
equity
awards
shall
vest
at
the
greater
of
target
or
actual
performance
through
the
date
of
such
Qualifying
Termination.

d) In
accordance
with
Section
5.7
of
the
Deferred
Compensation
Plan,
upon
a
Qualifying
Termination,
any
Units
or
Phantom
Units
(each

as
defined
in
the
Deferred
Compensation
Plan)
held
by
the
Covered
Executive
under
the
Deferred
Compensation
Plan
shall
be
distributed
and
governed
in
accordance
with
Section
2(c),
above,
and
the
otherwise
applicable
terms
of
the
LTIP.

12

[Signature

Page to

Amendment

No. 3

(Montana
Renewables)]
7554311.2

AGENT WELLS FARGO BANK, NATIONAL
AND ASSOCIATION, as Agent and as a Lender
LENDERS:

By: /s/ _____ Barry
 Felker
Name: Barry Felker

Title: Authorized Signatory

[Signature
Page to
Amendment
No. 3
(Montana
Renewables)]
7554311.2

Exhibit
31.1

CERTIFICATION
OF
CHIEF
EXECUTIVE
OFFICER

PURSUANT
TO
RULE
13A-
14(A)
AND
RULE
15D-
14(A)

OF
THE
SECURITIES
EXCHANGE
ACT
OF
1934,
AS
AMENDED

I,
Todd
Borgmann,
certify
that:

1. I
have
reviewed
this
Quarterly
Report
of
Calumet
Specialty
Products
Partners,
L.P.
(the
"registrant")
on
Form
10-
Q
for
the
quarter
ended
June
30,
2023;

1. I
have
reviewed
this
Quarterly
Report
of
Calumet
Specialty
Products
Partners,
L.P.
(the
"registrant")
on

Form
10-
Q
for
the
quarter
ended
March
31,
2023;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

2. Based on my knowledge, this report does not

contain
any
untrue
statement
of
a
material
fact
or
omit
to
state
a
material
fact
necessary
to
make
the
statements
made,
in
light
of
the
circumstances
under
which
such
statements
were
made,
not
misleading
with
respect
to
the
period
covered
by
this
report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report,

fairly
present
in
all
material
respects
the
financial
condition,
results
of
operations
and
cash
flows
of
the
registrant
as
of,
and
for,
the
periods
presented
in
this
report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

4. The registrant's other certifying officer and I are responsible

for
establishing
and
maintaining
disclosure
controls
and
procedures
(as
defined
in
Exchange
Act
Rules
13a-
15(e)
and
15d-
15(e))
and
internal
control
over
financial
reporting
(as
defined
in
Exchange
Act
Rules
13a-
15(f)
and
15d-
15(f))
for
the
registrant
and
have:

- a. Designed
such
disclosure
controls
and
procedures,
or
caused
such
disclosure
controls
and
procedures

to
be
designed
under
our
supervision,
to
ensure
that
material
information
relating
to
the
registrant,
including
its
consolidated
subsidiaries,
is
made
known
to
us
by
others
within
those
entities,
particularly
during
the
period
in
which
this
report
is
being
prepared;

b. Designed
such
internal
control
over
financial
reporting,
or
caused
such
internal
control
over
financial

reporting
to
be
designed
under
our
supervision,
to
provide
reasonable
assurance
regarding
the
reliability
of
financial
reporting
and
the
preparation
of
financial
statements
for
external
purposes
in
accordance
with
generally
accepted
accounting
principles;

c. Evaluated
the
effectiveness
of
the
registrant's
disclosure
controls
and
procedures
and
presented
in
this
report
our
conclusions
about
the
effectiveness
of

the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an

annual
report)
that
has
materially
affected,
or
is
reasonably
likely
to
materially
affect,
the
registrant's
internal
control
over
financial
reporting;
and

5. The
registrant's
other
certifying
officer
and
I
have
disclosed,
based
on
our
most
recent
evaluation
of
internal
control
over
financial
reporting,
to
the
registrant's
auditors
and
the
audit
committee
of
the
registrant's
board

of
directors
(or
persons
performing
the
equivalent
functions):

a. All
significant
deficiencies
and
material
weaknesses
in
the
design
or
operation
of
internal
control
over
financial
reporting
which
are
reasonably
likely
to
adversely
affect
the
registrant's
ability
to
record,
process,
summarize
and
report
financial
information;
and

b. Any
fraud,
whether
or
not
material,
that
involves
management
or

other
employees
who
have
a
significant
role
in
the
registrant's
internal
control
over
financial
reporting.

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed
in
this
report
any
change
in
the
registrant's
internal
control
over
financial
reporting
that
occurred
during
the
registrant's
most
recent
fiscal
quarter
(the
registrant's
fourth
fiscal
quarter
in
the
case
of
an
annual
report)
that
has
materially
affected,
or
is
reasonably
likely
to
materially
affect,
the
registrant's
internal
control
over
financial
reporting;
and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: _____
Date: May 5, 2023 /s/ Todd
Todd
Chief
(Principal

Exhibit
31.2
CERTIFICATION
OF
CHIEF
FINANCIAL
OFFICER

**PURSUANT
TO
RULE
13A-
14(A)
AND
RULE
15D-
14(A)
OF
THE**

**SECURITIES
EXCHANGE
ACT
OF
1934,
AS
AMENDED**

*I,
Vincent
Donargo,
certify
that:*

**1. I
have
reviewed
this
Quarterly
Report
of
Calumet
Specialty
Products
Partners,
L.P.
(the
"registrant")
on
Form
10-
Q
for
the
quarter
ended
June
30,
2023;**

**1. I
have
reviewed
this
Quarterly**

Report
of
Calumet
Specialty
Products
Partners,
L.P.
(the
"registrant")
on
Form
10-
Q
for
the
quarter
ended
March
31,
2023;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

2. Based on my knowledge, this report does not

contain
any
untrue
statement
of
a
material
fact
or
omit
to
state
a
material
fact
necessary
to
make
the
statements
made,
in
light
of
the
circumstances
under
which
such
statements
were
made,
not
misleading
with
respect
to
the
period
covered
by
this
report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

3. *Based on my knowledge, the financial statements, and other financial information included in this report,*

fairly
present
in
all
material
respects
the
financial
condition,
results
of
operations
and
cash
flows
of
the
registrant
as
of,
and
for,
the
periods
presented
in
this
report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

4. The registrant's other certifying officer and I are responsible

for
establishing
and
maintaining
disclosure
controls
and
procedures
(as
defined
in
Exchange
Act
Rules
13a-
15(e)
and
15d-
15(e))
and
internal
control
over
financial
reporting
(as
defined
in
Exchange
Act
Rules
13a-
15(f)
and
15d-
15(f))
for
the
registrant
and
have:

- a. Designed
such
disclosure
controls
and
procedures,
or
caused
such
disclosure
controls
and
procedures

to
be
designed
under
our
supervision,
to
ensure
that
material
information
relating
to
the
registrant,
including
its
consolidated
subsidiaries,
is
made
known
to
us
by
others
within
those
entities,
particularly
during
the
period
in
which
this
report
is
being
prepared;

b. Designed
such
internal
control
over
financial
reporting,
or
caused
such
internal
control
over
financial

reporting
to
be
designed
under
our
supervision,
to
provide
reasonable
assurance
regarding
the
reliability
of
financial
reporting
and
the
preparation
of
financial
statements
for
external
purposes
in
accordance
with
generally
accepted
accounting
principles;

c. Evaluated
the
effectiveness
of
the
registrant's
disclosure
controls
and
procedures
and
presented
in
this
report
our
conclusions
about
the
effectiveness
of

the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an

annual
report)
that
has
materially
affected,
or
is
reasonably
likely
to
materially
affect,
the
registrant's
internal
control
over
financial
reporting;
and

5. The
registrant's
other
certifying
officer
and
I
have
disclosed,
based
on
our
most
recent
evaluation
of
internal
control
over
financial
reporting,
to
the
registrant's
auditors
and
the
audit
committee
of
the
registrant's
board

of
directors
(or
persons
performing
the
equivalent
functions):

- a. All
significant
deficiencies
and
material
weaknesses
in
the
design
or
operation
of
internal
control
over
financial
reporting
which
are
reasonably
likely
to
adversely
affect
the
registrant's
ability
to
record,
process,
summarize
and
report
financial
information;
and
- b. Any
fraud,
whether
or
not
material,
that
involves
management
or

other
employees
who
have
a
significant
role
in
the
registrant's
internal
control
over
financial
reporting.

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed
in
this
report
any
change
in
the
registrant's
internal
control
over
financial
reporting
that
occurred
during
the
registrant's
most
recent
fiscal
quarter
(the
registrant's
fourth
fiscal
quarter
in
the
case
of
an
annual
report)
that
has
materially
affected,
or
is
reasonably
likely
to
materially
affect,
the
registrant's
internal
control
over
financial
reporting;
and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: _____
Date: May 5, 2023 /s/
Vincent
Executive
Vice
(Principal

Exhibit
32.1
CERTIFICATION
OF

**CHIEF
EXECUTIVE
OFFICER
AND
CHIEF
FINANCIAL
OFFICER**

**PURSUANT
TO**

**18
U.S.C.
SECTION
1350,**

**AS
ADOPTED
PURSUANT
TO**

**SECTION
906
OF
THE
SARBANES-
OXLEY
ACT
OF
2002**

*In
connection
with
the
Quarterly
Report
of
Calumet
Specialty
Products
Partners,
L.P.
(the
"Partnership")
on
Form
10-
Q
for
the
quarter*

ended
March
31,
2023 June
30,
2023
as
filed
with
the
Securities
and
Exchange
Commission
on
the
date
hereof
(the
"Report"),
each
of
Todd
Borgmann,
Chief
Executive
Officer
of
Calumet
GP,
LLC,
the
general
partner
of
the
Partnership
(the
"General
Partner"),
and
Vincent
Donargo,
Executive
Vice
President
and
Chief
Financial
Officer

of
Calumet
GP,
LLC,
each
certify
that
to
his
knowledge:

(a) The
Report
fully
complies
with
the
requirements
of
Section
13(a)
or
15(d)
of
the
Securities
Exchange
Act
of
1934,
as
amended;
and

(b) The
information
contained
in
the
Report
fairly
presents,
in
all
material
respects,
the
financial
condition
and
results
of
operations
of

the
Partnership.

(a) The
Report
fully
complies
with
the
requirements
of
Section
13(a)
or
15(d)
of
the
Securities
Exchange
Act
of
1934,
as
amended;
and

(b) The
information
contained
in
the
Report
fairly
presents,
in
all
material
respects,
the
financial
condition
and
results
of
operations
of
the
Partnership.

August _____
May 5, 2023 _____ /s/ Todd
Todd
Chief
(Principal

August _____

May 5, 2023 /s/
Vincent
Executive
Vice
(Principal)

DISCLAIMER

THE
INFORMATION
CONTAINED
IN
THE
REFINITIV
CORPORATE
DISCLOSURES
DELTA
REPORT™
IS
A
COMPARISON
OF
TWO
FINANCIALS
PERIODIC
REPORTS.
THERE
MAY
BE
MATERIAL
ERRORS,
OMISSIONS,
OR
INACCURACIES
IN
THE
REPORT
INCLUDING
THE
TEXT
AND
THE
COMPARISON
DATA
AND
TABLES.
IN
NO
WAY
DOES
REFINITIV
OR
THE
APPLICABLE
COMPANY
ASSUME
ANY
RESPONSIBILITY
FOR

ANY
INVESTMENT
OR
OTHER
DECISIONS
MADE
BASED
UPON
THE
INFORMATION
PROVIDED
IN
THIS
REPORT.
USERS
ARE
ADVISED
TO
REVIEW
THE
APPLICABLE
COMPANY'S
ACTUAL
SEC
FILINGS
BEFORE
MAKING
ANY
INVESTMENT
OR
OTHER
DECISIONS.

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