

SARATOGA RESOURCES INC /TX

Form S-4

September 26, 2011

As filed with the Securities and Exchange Commission on September [\_\_\_], 2011

Registration No. 333-[ ]

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Form S-4

**REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933**

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**SARATOGA RESOURCES, INC.**

*(exact name of registrant as specified in its charter)*

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**Texas**

*(State or Other Jurisdiction of  
Incorporation or Organization)*

**1311**

*(Primary Standard Industrial  
Classification Code Number)*

**76-0314489**

*(I.R.S. Employer  
Identification No.)*

**7500 San Felipe, Suite 675  
Houston, Texas 77063  
(713) 458-1560**

*(Address, Including Zip Code, and Telephone  
Number,  
Including Area Code, of Registrant's  
Principal Executive Offices)*

**Thomas Cooke  
7500 San Felipe, Suite 675  
Houston, Texas 77063  
(713) 458-1560**

*(Name, Address, Including Zip Code, and  
Telephone Number,  
Including Area Code, of Agent for Service)*

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*Copies to:*

**David K. Bowsher**

**Adams and Reese LLP**

**2100 Third Avenue North, Suite 1100**

**Michael W. Sanders**

**Michael W. Sanders, Attorney at Law**

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**Birmingham, Alabama 35203**

**Houston, Texas 77070**

**(205) 250-5000**

**(832) 446-2599**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering.

If this Form is a post effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

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

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction.

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

Exchange Act Rule 13d-1(d) (Cross-Border Third-Party Issuer Tender Offer)

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**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered<sup>(1)</sup></b>	<b>Amount to be Registered</b>	<b>Proposed Maximum Offering Price per Note<sup>(1)</sup></b>	<b>Proposed Maximum Aggregate Offering Price<sup>(1)</sup></b>	<b>Amount of Registration Fee<sup>(3)</sup></b>
12.5% Senior Secured Notes due 2016	\$ 127,500,000	100%	\$ 127,500,000	\$ 14,802.75
Guarantees <sup>(2)</sup>	N/A	N/A	N/A	
<b>Total:</b>	<b>\$ 127,500,000</b>		<b>\$ 127,500,000</b>	<b>\$ 14,802.75</b>

(1)

Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(f) under the Securities Act of 1933.

(2)

No separate consideration will be received for the guarantees, and no separate fee is payable pursuant to Rule 457(a) under the Securities Act of 1933.

(3)

In accordance with Rule 457(n) under the Securities Act of 1933, no separate fee is payable with respect to guarantees of the securities being registered.

**Each Registrant hereby amends this Registration Statement on such dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

**TABLE OF ADDITIONAL REGISTRANT GUARANTORS**

<b>Exact Name of Registrant Guarantors (1)</b>	<b>State or Other</b>	<b>Primary</b>	<b>IRS</b>
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	<b>Jurisdiction of Incorporation or Formation</b>	<b>Standard Industrial Classification Code Number</b>	<b>Employer Identification Number</b>
Harvest Oil & Gas, LLC	Louisiana	1311	20-1430003
The Harvest Group LLC	Louisiana	1311	20-1233158
Lobo Resources, Inc.	Texas	1311	74-2697201
Lobo Operating, Inc.	Texas	1311	76-0436990

(1)

The address for each of the Guarantors is 7500 San Felipe, Suite 675, Houston, Texas 77063 and the telephone number for the Registrant Guarantors (713) 458-1560.

**The information in this preliminary prospectus is not complete and may be changed without notice. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**Subject to Completion, dated September 23, 2011**

**PROSPECTUS**

**Saratoga Resources, Inc.**

**Offer to Exchange**

**\$127,500,000 of 12.5% Senior Secured Notes due 2016**

**that have been registered under the Securities Act of 1933**

**for**

**\$127,500,000 of 12.5% Senior Secured Notes due 2016**

**that have not been registered under the Securities Act of 1933**

Saratoga Resources, Inc. is offering to exchange registered 12.5% Senior Secured Notes due 2016, or the exchange notes, for any and all of its unregistered 12.5% Senior Secured Notes due 2016, or the outstanding notes, that were issued pursuant to a private placement on July 12, 2011. We refer to the outstanding notes and the exchange notes together in this prospectus as the notes. We refer to this exchange as the exchange offer. The exchange notes are substantially identical to the outstanding notes, except the exchange notes are registered under the Securities Act of 1933, as amended (the Securities Act), and the transfer restrictions and registration rights, and related additional interest provisions, applicable to the outstanding notes will not apply to the exchange notes. The exchange notes will represent the same debt as the outstanding notes and we will issue the exchange notes under the same indenture used in issuing the outstanding notes.

**Terms of the exchange offer:**

The exchange offer expires at 5:00 p.m., New York City time, on \_\_\_\_\_, 2011, unless we extend it.

The exchange offer is subject to customary conditions, which we may waive.

We will exchange all outstanding notes that are validly tendered and not withdrawn prior to the expiration of the exchange offer for an equal principal amount of exchange notes. All interest due and payable on the outstanding notes will become due and payable on the same terms under the exchange notes.

You may withdraw your tender of outstanding notes at any time prior to the expiration of the exchange offer.

If you fail to tender your outstanding notes, you will continue to hold unregistered, restricted securities, and your ability to transfer them could be adversely affected.

We believe that the exchange of exchange notes for outstanding notes will not be a taxable transaction for U.S. federal income tax purposes, but you should see the discussion under the caption **Material U.S. Federal Income and Estate Tax Considerations** for more information.

We will not receive any proceeds from the exchange offer.

**Please read Risk Factors** beginning on page 7 for a discussion of factors you should consider before deciding whether to participate in the exchange offer.

Each broker-dealer that receives the exchange notes for its own account pursuant to this exchange offer must acknowledge by way of the letter of transmittal that it will deliver a prospectus in connection with any resale of the exchange notes. The letter of transmittal states that by so acknowledging and by delivering a prospectus, such broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of the exchange notes received in exchange for outstanding notes where such outstanding notes were acquired by such broker-dealer as a result of market-making activities or other trading activities. Until \_\_\_\_\_, 2011 all dealers that effect transactions in the exchange notes, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters with respect to their unsold allotments or subscriptions. We have agreed that, until

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, 2011, we will make this prospectus available to any broker-dealer for use in connection with any such resale. See Plan of Distribution.

**Neither the Securities and Exchange Commission (the SEC ) nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**YOU SHOULD READ THIS ENTIRE DOCUMENT AND THE ACCOMPANYING LETTER OF TRANSMITTAL AND RELATED DOCUMENTS AND ANY AMENDMENTS OR SUPPLEMENTS CAREFULLY BEFORE MAKING YOUR DECISION TO PARTICIPATE IN THE EXCHANGE OFFER.**

The date of this prospectus is \_\_\_\_\_, 2011.

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This prospectus is part of a registration statement we filed with the SEC. In making your decision whether to participate in this exchange offer, you should rely only on the information contained in or incorporated by reference into this prospectus and in the letter of transmittal accompanying this prospectus. We have not authorized any other person to provide you with additional or different information. If you receive any unauthorized information, you must not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer is not permitted. You should not assume that the information contained in this prospectus or in the documents incorporated by reference into this prospectus is accurate as of any date other than the date on the front cover of this prospectus or the date of such incorporated documents, as the case may be.

This prospectus incorporates by reference business and financial information about us that is not included in or delivered with this prospectus. This information is available without charge upon written or oral request directed to: Saratoga Resources, Inc., Attention: Investor Relations, 7500 San Felipe, Suite 675, Houston, Texas 77063; telephone number: (713) 458-1560.

**FORWARD-LOOKING STATEMENTS**

This prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). Forward-looking statements give our current expectations or forecasts of future events. These statements can be identified by the use of forward-looking words, including may, expect, anticipate, plan, project, believe, estimate, intend, will, similar words. Forward-looking statements may include statements that relate to, among other things, our:

forward-looking reserve estimates;



financial position;

business strategy and budgets;

anticipated capital expenditures;

drilling of wells;

oil and natural gas reserves;

timing and amount of future production of oil and natural gas;

operating costs and other expenses;

cash flow and anticipated liquidity;

prospect development; and

property acquisitions and sales.

Although we believe the expectations reflected in such forward-looking statements are reasonable, we cannot assure you that such expectations will occur. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from future results expressed or implied by the forward-looking statements. These factors include among others:

general economic conditions;

our inability to prevent significant net losses;

recovery of proved undeveloped reserves;

our ability to generate sufficient cash flow to service our debt obligations;

our ability to finance capital expenditures;

price volatility and low and/or declining prices for oil and natural gas;

regulation of derivatives and our ability to successfully hedge our commodity risk;

changes in favorable tax legislation;

operating hazards attendant to the oil and natural gas business, such as natural conditions affecting the geographic region and mechanical failures;

uncertainties in the estimation of proved reserves and in the projection of future rates of production;

ability to find, acquire, market, develop and produce new oil and natural gas properties;

strength and financial resources of competitors;

availability and cost of material and equipment;

our ability to achieve and manage our growth;

actions or inactions of third-party operators of our properties;

down hole drilling and completion risks that are generally not recoverable from third parties or insurance;

federal and state regulatory developments and approvals;

environmental risks;

ability to find and retain skilled personnel;

work stoppages and other personnel-related issues;

risks associated with decommissioning wells; and

our ability to acquire or renew permits and approvals for operations.

Other factors described herein or incorporated by reference, or factors that are unknown or unpredictable, could also have a material adverse effect on future results. Please read **Risk Factors** beginning on page 7 of this prospectus.

For these and other reasons, actual results may differ materially from those projected or implied. We believe it is important to communicate our expectations of future performance to our investors. However, events may occur in the future that we are unable to accurately predict, or over which we have no control. We caution you against putting undue reliance on forward-looking statements or projecting any future results based on such statements.

All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section and any other cautionary statements that may accompany such forward-looking statements. We do not undertake any obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date of this prospectus or to reflect the occurrence of unanticipated events, unless the securities laws require us to do so.



## SUMMARY

*This summary highlights selected information about us, but does not contain all the information that may be important to you. This prospectus includes specific information about the exchange offer and incorporates by reference information about our business and financial data. You should read this prospectus carefully, including the matters set forth under the caption *Risk Factors* and the information incorporated by reference in this prospectus before making a decision whether to participate in the exchange offer.*

*In this prospectus, except under the caption *Description of the Exchange Notes* and unless the context indicates otherwise, references to *Saratoga, the Company, we, our and us* refer to *Saratoga Resources, Inc. and its subsidiaries*. For more information about the industry terms used in this prospectus, please read *Glossary of Oil and Natural Gas Terms* in our *Current Report on Form 8-K* filed September 23, 2011.*

### **Our Company**

We are an independent oil and natural gas company engaged in the production, development, acquisition and exploitation of crude oil and natural gas properties. Our properties are located exclusively in the transitional coastline in protected in-bay environments on parish and state leases in south Louisiana. The properties span 12 fields which are characterized by over 30 years of development drilling and production history, including Grand Bay field which has over 70 years of production history and over 250 MMBoe produced to date, yet remains virtually unexplored at depths greater than 15,000 feet. We believe the quality and location of our properties reduce our development risk and promote operating efficiencies which help to reduce our lifting costs. Our properties, the majority of which were acquired in July 2008, cover an estimated 33,625 gross acres (31,125 net) and substantially all are held by production ( *HBP* ) without near-term lease expirations. We do not hold, nor do we conduct operations in, any properties in the Gulf of Mexico that are subject to the oversight of the U.S. Bureau of Ocean Energy Management, Regulation and Enforcement ( *BOEMRE* ). Instead, our properties are subject to regulation by the Louisiana Department of Natural Resources and other state and parish governmental bodies.

### **Corporate Information**

Our principal executive offices are located at 7500 San Felipe, Suite 675, Houston, Texas 77063. We can be reached at (713) 458-1560, and our website address is [www.saratogaresources.com](http://www.saratogaresources.com). Information on our website is not part of this prospectus.



### The Exchange Offer

*On July 12, 2011, we completed a private offering of \$127.5 million aggregate principal amount of the outstanding notes. As part of this private offering, we entered into a registration rights agreement with the initial purchaser of the outstanding notes in which we agreed, among other things, to use our commercially reasonable efforts to complete the exchange offer no later than 180 days after July 12, 2011. The following is a summary of the exchange offer.*

Outstanding Notes	On July 12, 2011, we issued \$127.5 million aggregate principal amount of 12.5% Senior Secured Notes due 2016.
Exchange Notes	12.5% Senior Secured Notes due 2016. The terms of the exchange notes are identical to the terms of the outstanding notes, except that the transfer restrictions, registration rights and provisions for additional interest relating to the outstanding notes will not apply to the exchange notes.
Exchange Offer	We are offering to exchange up to \$127.5 million principal amount of our 12.5% Senior Secured Notes due 2016 that have been registered under the Securities Act of 1933, or the Securities Act, for an equal amount of our outstanding 12.5% Senior Secured Notes due 2016 issued on July 12, 2011 to satisfy our obligations under the registration rights agreement that we entered into when we issued the outstanding notes in a transaction exempt from registration under the Securities Act.
Expiration Date	The exchange offer will expire at 5:00 p.m., New York City time, on _____, 2011, unless we extend it.
Conditions to the Exchange Offer	The registration rights agreement does not require us to accept outstanding notes for exchange if the exchange offer or the making of any exchange by a holder of the outstanding notes would violate any applicable law or SEC policy. There is no condition to the exchange offer that a minimum aggregate principal amount of outstanding notes be tendered. Please read The Exchange Offer Conditions to the Exchange Offer for more information about the conditions to the exchange offer.
Procedures for Tendering Outstanding Notes	All of the outstanding notes are held in book-entry form through the facilities of The Depository Trust Company, or DTC. To participate in the exchange offer, you must follow the automatic tender offer program, or ATOP, procedures established by DTC for tendering notes held in book-entry form. The ATOP procedures require that the exchange agent receive, prior to the expiration date of the exchange offer, a computer-generated message known as an agent's message that is transmitted through ATOP and that DTC confirm that:

DTC has received instructions to exchange your notes; and

you agree to be bound by the terms of the letter of transmittal in Annex A hereto.

For more details, please read [The Exchange Offer Terms of the Exchange Offer](#) and [The Exchange Offer Procedures for Tendering](#).

Guaranteed Delivery Procedures

None.

Withdrawal of Tenders

You may withdraw your tender of outstanding notes at any time prior to the expiration date. To withdraw, you must submit a notice of withdrawal to the exchange agent using ATOP procedures before 5:00 p.m., New York City time, on the expiration date of the exchange offer. Please read [The Exchange Offer Withdrawal of Tenders](#).



Acceptance of Outstanding Notes and  
Delivery of Exchange Notes

If you fulfill all conditions required for proper acceptance of outstanding notes, we will accept any and all outstanding notes that you properly tender in the exchange offer before 5:00 p.m., New York City time, on the expiration date. We will return to you any outstanding note that we do not accept for exchange without expense promptly after the expiration date. We will deliver the exchange notes promptly after the expiration date. Please read [The Exchange Offer](#) [Terms of the Exchange Offer](#).

Use of Proceeds

We will not receive any proceeds from the issuance of the exchange notes. We are making the exchange offer solely to satisfy our obligations under the registration rights agreement.

Consequences of Failure to Exchange  
Outstanding Notes

If you do not exchange your outstanding notes in the exchange offer, you will no longer be able to require us to register the outstanding notes under the Securities Act, except in the limited circumstances provided under our registration rights agreement. In addition, you will not be able to resell, offer to resell or otherwise transfer the outstanding notes unless we have registered the outstanding notes under the Securities Act, or unless you resell, offer to resell or otherwise transfer them under an exemption from the registration requirements of, or in a transaction not subject to, the Securities Act.

Material U.S. Federal Income Tax  
Considerations

We believe that the exchange of exchange notes for outstanding notes in the exchange offer will not be a taxable event for U.S. federal income tax purposes. Please read [Material U.S. Federal Income and Estate Tax Considerations](#).

Exchange Agent

We have appointed The Bank of New York Mellon Trust Company, N.A. as the exchange agent for the exchange offer. You should direct questions and requests for assistance and requests for additional copies of this prospectus (including the letter of transmittal) to the exchange agent addressed as follows:

The Bank of New York Mellon Trust Company, N.A. as Exchange Agent  
c/o The Bank of New York Mellon Corporation  
Corporate Trust Operations – Reorganization Unit  
101 Barclay Street, Floor 7 East  
New York, NY 10286  
Attention: William Buckley

Telephone: (212) 815-5788

Facsimile: (212) 298-1915

### Terms of the Exchange Notes

*The exchange notes will be identical to the outstanding notes, except that the exchange notes will be registered under the Securities Act and will not have restrictions on transfer, registration rights or provisions for additional interest. The exchange notes will evidence the same debt as the outstanding notes, and the same indenture will govern the exchange notes and the outstanding notes. We refer to both the exchange notes and the outstanding notes together as the notes.*

*The following summary contains basic information about the exchange notes and is not intended to be complete. It does not contain all the information that may be important to you. For a more complete understanding of the exchange notes, please read Description of the Exchange Notes.*

Issuer	Saratoga Resources, Inc.
Notes Offered	\$127,500,000 aggregate principal amount of 12.5% senior secured notes due 2016.
Maturity Date	July 1, 2016.
Interest Rate	The exchange notes will bear interest at a rate of 12.5% per year.
Interest Payment Dates	January 1 and July 1 of each year to holders of record as of the preceding December 15 and June 15, respectively. The initial interest payment on the exchange notes will include all accrued and unpaid interest on the outstanding notes exchanged therefor. See Description of the Exchange Notes Principal, Maturity and Interest.
Guarantees	The exchange notes will be fully and unconditionally guaranteed, jointly and severally, on a senior secured basis by each of our existing and future domestic subsidiaries, which we refer to in this prospectus as the guarantors.
Security Interest	The notes and the guarantees will be secured by liens on substantially all of our and the guarantors assets, subject to certain exceptions and permitted liens. Pursuant to the terms of an intercreditor agreement that we anticipate entering into concurrently with or shortly after the closing of the notes offered hereby, we expect the liens on the collateral securing the notes and the guarantees will be contractually subordinated to the liens on the collateral securing our new revolving

credit facility and certain other permitted indebtedness. Under the terms of the intercreditor agreement, in the event of a foreclosure on the collateral or of insolvency proceedings, we expect that the holders of the notes will receive proceeds from the collateral only after obligations under our new revolving credit facility and certain other permitted indebtedness have been paid in full. See Description of the Exchange Notes Security.

Intercreditor Agreement

Concurrently with or shortly after the closing of this offering, we expect the administrative agent and the collateral agent under our new revolving credit facility, on behalf of the secured parties thereunder and our hedging counterparty, and the collateral agent for the notes offered hereby, on behalf of the secured parties under the indenture governing the notes offered hereby, to enter into an intercreditor agreement, which will, among other things, define the relative priorities of their respective security interests in the assets securing the notes and certain other matters relating to the administration of security interests, exercise of remedies, certain bankruptcy-related provisions and other intercreditor matters. We expect the intercreditor agreement to also provide that in the event of a foreclosure on the collateral or of insolvency proceedings, the holders of the notes and any other pari passu indebtedness will receive proceeds from the collateral only after obligations under our new revolving credit facility and certain other permitted indebtedness have been paid in full. See Description of the Exchange Notes Intercreditor Agreement.

Ranking

The exchange notes will be our and the guarantors senior secured obligations. The exchange notes will:

rank equal in right of payment with all of our and the guarantors existing and future senior indebtedness;

rank senior in right of payment to all of our and the guarantors existing and future subordinated indebtedness;

be effectively senior to all of our and the guarantors existing and future unsecured indebtedness to the extent of the value of the collateral securing such indebtedness;

be effectively subordinated to our and the guarantors obligations under our new revolving credit facility and any other future pari passu lien obligations to the extent of the value of the collateral securing such indebtedness; and

be structurally junior to all existing and future indebtedness and other liabilities of each of our non-guarantor subsidiaries, if any.

#### Redemption of the Notes at Our Option

On or after January 1, 2014, we may redeem some or all of the notes at a premium that will decrease over time as set forth in Description of Notes Optional Redemption, plus accrued and unpaid interest, if any, to the date of redemption.

Prior to January 1, 2014, we may, at our option, redeem up to 35% of the aggregate principal amount of the notes using the net proceeds of certain equity offerings at a price equal to 112.500% of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of redemption; provided that, following any and all such redemptions, at least 65% of the aggregate principal amount of the notes originally issued under the indenture remains outstanding and the redemption occurs within 60 days of the closing of such equity offering.

In addition, at any time prior to January 1, 2014, we may, at our option, redeem all or a part of the notes, upon not less than 30 nor more than 60 days notice, at a redemption price equal to 100% of the principal amount of the notes redeemed plus a specified make-whole premium, plus accrued and unpaid interest, if any, to the applicable date of redemption.

In addition, during each twelve-month period commencing on the issue date and ending on or prior to January 1, 2014, we may redeem up to 10% of the aggregate principal amount of the notes at a redemption price equal to 106.250% of the principal amount thereof, plus accrued and unpaid interest to the redemption date. See Description of the Exchange Notes Optional

Redemption.

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Change of Control

If we experience certain kinds of changes of control (as defined in the indenture governing the notes), the holders of the notes will have the right to require us to purchase all or a portion of their notes at an offer price in cash equal to 101% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the date of purchase. See Description of the Exchange Notes Repurchase at the Option of Holders Change of Control.

Asset Sale

Upon certain asset sales, we may be required to offer to use the net proceeds of an asset sale to purchase the notes at 100% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the date of purchase. See Description of the Exchange Notes Repurchase at the Option of Holders Asset Sale.

Certain Covenants

The indenture governing the exchange notes contains covenants that, among other things, limit our ability and the ability of our restricted subsidiaries to:

transfer or sell assets or use asset sale proceeds;

pay dividends or make distributions, redeem subordinated debt or make other restricted payments;

make certain investments;

incur or guarantee additional debt or issue preferred equity securities;

issue or sell capital stock of certain subsidiaries;

create or incur certain liens on our assets;

incur dividend or other payment restrictions affecting our restricted subsidiaries;

merge, consolidate or transfer all or substantially all of our assets;

enter into certain transactions with affiliates;

engage in a business other than a business that is the same or similar to our current business and reasonably related businesses; and

take or omit to take any actions that would adversely affect or impair in any material respect the collateral securing the notes.

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These covenants are subject to a number of important exceptions and limitations and are described in more detail under [Description of the Exchange Notes](#) [Certain Covenants](#).

Absence of a Public Market for the Notes

The exchange notes generally will be freely transferable, but will also be new securities for which there will not initially be a market. We do not intend to make a trading market in the exchange notes after the exchange offer. Accordingly, a market for the exchange notes may not develop, or if one does develop, it may not provide adequate liquidity.

Global Notes

The exchange notes will be evidenced by one or more global notes deposited with the trustee as custodian for DTC. These global notes will be registered in the name of Cede & Co., as DTC's nominee.

Risk Factors

You should consider carefully all of the information set forth in this prospectus and incorporated by reference and, in particular, you should evaluate the risks described under **Risk Factors** in this prospectus and in our filings with the SEC before making a decision whether to participate in the exchange offer.

No Listing of the Notes

We do not intend to apply to list the notes on any securities exchange.

Trustee and Exchange Agent

The Bank of New York Mellon Trust Company, N.A.



## **RISK FACTORS**

*You should consider carefully the risks discussed below as well as those described in our Annual Report on Form 10-K for the year ended December 31, 2010 and in our other filings with the SEC before making a decision whether to participate in the exchange offer. Additional risks and uncertainties described elsewhere in this prospectus or in the documents incorporated by reference in this prospectus may also adversely affect our business, operating results, financial condition and prospects, as well as the value of the exchange notes.*

*If any of the following risks actually were to occur, our business, financial condition, results of operations or cash flow could be affected materially and adversely. In that case, you could lose all or part of your investment in or fail to achieve the expected return on the notes.*

### **Risks Related to the Exchange Offer**

*If you fail to exchange outstanding notes, existing transfer restrictions will remain in effect and the market value of outstanding notes may be adversely affected because they may be more difficult to sell.*

If you fail to exchange outstanding notes for exchange notes under the exchange offer, you will continue to be subject to the existing transfer restrictions on your outstanding notes. In general, the outstanding notes may not be offered or sold unless they are registered or exempt from registration under the Securities Act and applicable state securities laws. Except in connection with this exchange offer or as required by the registration rights agreement, we do not intend to register resales of the outstanding notes.

Any tenders of outstanding notes under the exchange offer will reduce the principal amount of the currently outstanding notes. Due to the corresponding reduction in liquidity, this may have an adverse effect upon, and increase the volatility of, the market price of any currently outstanding notes that you continue to hold following completion of the exchange offer.

### **Risks Related to the Notes**

*The forward-looking production estimates presented in this prospectus will differ from our actual results.*

The forward-looking production estimates we have included in this prospectus are based upon a number of assumptions and on information that we believe are reliable as of today. However, these forward-looking production estimates and assumptions are inherently subject to significant business and economic uncertainties, many of which are beyond our control. These forward-looking production estimates are necessarily speculative in nature, and you should expect that some or all of the assumptions will not materialize. Actual results will vary from the forward-looking production estimates and the variations will likely be material and are likely to increase over time. Consequently, the inclusion of these forward-looking production estimates in this prospectus should not be regarded as a representation by us or any other person that the forward-looking production estimates will actually be achieved. Moreover, we do not intend to update or otherwise revise these forward-looking production estimates to reflect events or circumstances after the date of this prospectus to reflect the occurrence of unanticipated events. You are cautioned not to place undue reliance on the forward-looking production estimates.

Our forward-looking production estimates were not prepared with a view toward compliance with published guidelines of the SEC, the American Institute of Certified Public Accountants, the Society of Petroleum Engineers, the World Petroleum Congress or any other regulatory or professional body or generally accepted accounting principles. No independent accountants or independent petroleum engineers compiled or examined the forward-looking production estimates, and accordingly no independent accountant or independent petroleum engineer has expressed an opinion or any other form of assurances with respect thereto or has assumed any responsibility for the forward-looking production estimates. Further, our independent petroleum engineers made different assumptions when calculating our respective proved reserve estimates. As a result, our forward-looking production estimates may not accurately portray our proved reserves in the future.

***Our leverage and debt service obligations may adversely affect our cash flow and our ability to make payments on the notes.***

We have a substantial amount of debt currently outstanding. As of June 30, 2011, on an as adjusted basis after giving effect to the issuance of the outstanding notes and related transactions that occurred at or about the time of the issuance of the outstanding notes, we would have had approximately \$133.5 million of debt outstanding. In addition, we are undertaking efforts to establish a new revolving credit facility with the expectation of having unused available credit of approximately \$35 million.

Our substantial level of indebtedness could have important consequences to you, including the following:

it may make it difficult for us to satisfy our obligations under the notes, our other indebtedness and contractual and commercial commitments;

we must use a substantial portion of our cash flow from operations to pay interest on the notes and our other indebtedness, which will reduce the funds available to us for other purposes;

our ability to obtain additional debt financing in the future for working capital, capital expenditures, acquisitions or general corporate purposes may be limited;

our flexibility in reacting to changes in the industry may be limited and we could be more vulnerable to adverse changes in our business or economic conditions in general; and

we may be at a competitive disadvantage to those of our competitors who operate on a less leveraged basis.

Furthermore, we expect all of our borrowings under our new revolving credit facility to bear interest at variable rates. If these rates were to increase significantly, our ability to borrow additional funds may be reduced, our interest expense would significantly increase and the risks related to our substantial indebtedness would intensify.

Although we have commenced negotiations with a senior lender for our new revolving credit facility and expect to enter into such new revolving credit facility shortly, a revolving credit facility has not yet been established. The lack of a revolving credit facility or other working capital facility may substantially limit our liquidity. We may not have sufficient revenue or cash on hand to maintain current operations or respond to changing business conditions. There can be no assurance that we will be successful in establishing a new revolving credit facility or that the terms will be commercially reasonable or customary.

***Despite current indebtedness levels, we may still be able to incur substantially more debt, which would increase the risks associated with our substantial leverage.***

Even with our existing debt levels, we and our subsidiaries may be able to incur substantial additional indebtedness in the future. Although the indenture governing the notes includes, and the documentation governing our new revolving credit facility is expected to include, restrictions on the incurrence of additional indebtedness, these restrictions are subject to a number of significant qualifications and exceptions and, under certain circumstances, the amount of indebtedness that could be incurred in compliance with these restrictions could be substantial. If we incur additional indebtedness, the related risks that we now face would intensify and could further exacerbate the risks associated with

our substantial leverage.

***We may not be able to generate sufficient cash flow to meet our debt service and other obligations, including the notes, due to events beyond our control.***

Our ability to generate cash flows from operations and to make scheduled payments on or refinance our indebtedness, including the notes, and to fund working capital needs and planned capital expenditures will depend on our future financial performance and our ability to generate cash in the future. Our future financial performance will be affected by a range of economic, financial, competitive, business and other factors that we cannot control, such as general economic and financial conditions in the oil and gas industry, the economy generally or other risks summarized here. A significant reduction in operating cash flows resulting from adverse changes in the oil and gas industry or general economic conditions, increased competition or other events beyond our control could increase the need for additional or alternative sources of liquidity and could have a material adverse effect on our business, financial condition, results of operations, prospects and our ability to service our debt and other obligations, including the notes. If we are unable to service our indebtedness or to fund our other liquidity needs, we may be forced to adopt an alternative strategy that may include actions such as reducing or delaying capital expenditures, selling assets, restructuring or refinancing our indebtedness, seeking additional capital, or any combination of the foregoing. If we raise additional debt, it would increase our interest expense, leverage and our operating and financial costs. We cannot assure you that any of these alternative strategies could be effected on satisfactory terms, if at all, or that they would yield sufficient funds to make required payments on the notes and any other indebtedness or to fund our other liquidity needs. Reducing or delaying capital expenditures or selling assets could delay future cash flows. In addition, the terms of existing or future debt agreements, including the indenture governing the notes and the agreement governing our new revolving credit facility, may restrict us from adopting any of these alternatives. We cannot assure you that our business will generate sufficient cash flows from operations or that future borrowings will be available in an amount sufficient to enable us to pay our indebtedness, including these notes, or to fund our other liquidity needs.

The failure to generate sufficient cash flows or to effect any of these alternatives could significantly adversely affect the value of the notes and our ability to pay amounts due under the notes. If for any reason we are unable to meet our debt service and repayment obligations, including under the notes and under our new revolving credit facility, we would be in default under the terms of the agreements governing our indebtedness, which would allow our creditors at that time to declare all outstanding indebtedness to be due and payable. This would likely in turn trigger cross-acceleration or cross-default rights between our applicable debt agreements. Under these circumstances, our lenders could compel us to apply all of our available cash to repay our borrowings or they could prevent us from making payments on the notes. In addition, these lenders could then seek to foreclose on our assets that are their collateral. If the amounts outstanding under our indebtedness, including under the notes or under our new revolving credit facility, were to be accelerated, or were the subject of foreclosure actions, we cannot assure you that our assets would be sufficient to repay in full the money owed to our debt holders, including you as a noteholder.

In particular, we note that the severe downturn in the global and U.S. economy in late 2008 and continuing into 2009, and the accompanying sharp drop in oil and natural gas prices, were principal factors that led to the issuance of letters from our then term and revolver lenders alleging certain covenant defaults under our previous credit facilities and our ultimate filing of petitions for protection under Chapter 11. While we have since emerged from bankruptcy, renegotiated certain debt obligations, secured additional equity financing and taken steps to improve overall profitability, there is no assurance that future downturns in the broader economy or declines in oil and natural gas prices will not result in similar circumstances that led to our 2009 Chapter 11 filings.

***We have a holding company structure in which our subsidiaries conduct our operations and own our operating assets.***

We are a holding company and our subsidiaries conduct all of our operations and own all of our operating assets. We have no significant assets other than the limited liability company interests and other equity interests in our subsidiaries. As a result, our ability to make required payments on the notes will depend on the performance of our subsidiaries and their ability to distribute funds to us. The ability of our subsidiaries to make distributions to us may be restricted by, among other things, applicable state laws and other laws and regulations. If we are unable to obtain the funds necessary to pay the principal amount of the notes, or to repurchase the notes upon the occurrence of a change of control, or if our subsidiaries are unable to satisfy their obligations as guarantors of the notes, we may be required to adopt one or more alternatives, such as a refinancing of the notes. We cannot assure you that we would be able to refinance the notes.

***The indenture governing the notes imposes, and we expect that the agreement governing our new revolving credit facility will impose, significant operating and financial restrictions, which may prevent us from pursuing certain business opportunities and restrict our ability to operate our business.***

The indenture governing the notes contains, and we expect that the documentation governing our new revolving credit facility will contain, customary restrictions on our activities, including covenants that limit our and our restricted subsidiaries' ability to:

transfer or sell assets or use asset sale proceeds;

incur or guarantee additional indebtedness or issue preferred equity securities;

pay dividends, redeem subordinated indebtedness or make other restricted payments;

make certain investments;

create or incur certain liens on our assets;

incur dividend or other payment restrictions affecting our restricted subsidiaries;

enter into certain transactions with affiliates;

merge, consolidate or transfer all or substantially all of our assets;

engage in a business other than a business that is the same or similar to our current business and reasonably related businesses; and

take or omit to take any actions that would adversely affect or impair in any material respect the collateral securing the notes.

In addition, we expect that our new revolving credit facility will require us to meet certain financial ratios, which may include fixed charge coverage, total leverage or other similar such ratios.

The restrictions in the indenture governing the notes and in the agreement governing our new revolving credit facility may prevent us from taking actions that we believe would be in the best interest of our business, and may make it difficult for us to successfully execute our business strategy or effectively compete with companies that are not similarly restricted. We also may incur future debt obligations that might subject us to additional restrictive covenants that could affect our financial and operational flexibility. We cannot assure you that we will be granted waivers or amendments to these agreements if for any reason we are unable to comply with these agreements, or that we will be able to refinance our debt on terms acceptable to us, or at all. The breach of any of these covenants and restrictions could result in a default under the indenture governing the notes or under the agreement governing our new revolving credit facility. An event of default under our new revolving credit facility could permit some of our lenders to declare all amounts borrowed from them to be due and payable.

***Our ability to repurchase the notes with cash upon a change of control or upon an offer to repurchase the notes in the case of an asset sale, as required by the indenture, may be limited.***

Upon the occurrence of a change of control, as defined in the indenture governing the notes, we will be required to offer to repurchase all of the outstanding notes at 101% of the aggregate principal amount of the notes repurchased, plus accrued and unpaid interest to the date of repurchase. See Description of the Exchange Notes Repurchase at the Option of Holders Change of Control. In addition, upon the occurrence of certain asset sales, as defined in the indenture governing the notes, we will be required to offer to repurchase all of the outstanding notes at 100% of the aggregate principal amount of the notes repurchased, plus accrued and unpaid interest to the date of repurchase. See Description of the Exchange Notes Repurchase at the Option of Holders Asset Sales.

However, it is possible that we will not have sufficient funds at the time of the change of control or upon an asset sale to make the required repurchase of notes, or that restrictions in the agreement governing our new revolving credit facility will not allow such repurchases. Our failure to purchase tendered notes would constitute an event of default under the indenture governing the notes, which, in turn, would likely constitute a default under the agreement governing our new revolving credit facility. In that event, we would need to cure or refinance our new revolving credit facility before making an offer to purchase.

Moreover, the agreement governing our new revolving credit facility and the agreements governing any future indebtedness we incur may restrict our ability to repurchase the notes, including following a change of control event or upon an asset sale, as required by the indenture. As a result, following such an event, we would not be able to repurchase notes unless we first repay all such indebtedness or obtain a waiver from the holders of such indebtedness to permit us to repurchase the notes. We may be unable to repay all of that indebtedness or obtain a waiver of that type. Any requirement to offer to repurchase outstanding notes may therefore require us to refinance any other outstanding debt, which we may not be able to do on commercially reasonable terms, if at all. These repurchase requirements may also delay or make it more difficult for others to obtain control of us.

In addition, certain important corporate events, such as takeovers, recapitalizations, restructurings, mergers or similar transactions, may not constitute a change of control under the indenture governing the notes and, therefore, would not permit the holders of the notes to require us to repurchase the notes. See Description of the Exchange Notes Repurchase at the Option of Holders Change of Control.

In addition, the definition of change of control includes a phrase relating to the sale or other transfer of all or substantially all of the properties or assets of the company and its subsidiaries, taken as a whole. There is no precise definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty in ascertaining whether a particular transaction would involve a disposition of all or substantially all of the assets of the company, and, therefore, it may be unclear as to whether a change of control has occurred and whether the holders of the notes have the right to require us to repurchase such notes.

***The notes are secured only to the extent of the value of the assets that have been granted as security for the notes and in the event that the security is enforced against the collateral, the holders of the notes will receive proceeds from the collateral only after obligations under our new revolving credit facility and certain other permitted indebtedness have been paid in full.***

If we default on the notes, the holders of the notes will be secured only to the extent of the value of the assets underlying their security interest. Furthermore, upon enforcement against any collateral or insolvency, under the terms of the intercreditor agreement that we anticipate entering into, proceeds of such enforcement will first be used to pay obligations outstanding under our new revolving credit facility in full (including post-petition interest, whether or not allowable in any bankruptcy case) and certain other permitted indebtedness prior to paying the notes. See *The rights of holders of notes in the collateral may be adversely affected by the intercreditor agreement.*



***The value of the noteholders' security interest in the collateral may not be sufficient to satisfy all our obligations under the notes.***

The notes and the guarantees of the notes are secured on a senior secured basis by a lien on the assets that secure our obligations under our new revolving credit facility, including accounts, chattel paper, instruments, letter of credit rights, documents, equipment, general intangibles, inventory, cash and deposit accounts, investment property, owned real property and proceeds of the foregoing, in each case, subject to certain permitted liens and certain excluded assets. See *Description of the Exchange Notes - Security*.

If we default on the notes, the holders of the notes will be secured only to the extent of the value of the assets underlying their security interest. Furthermore, upon enforcement against any collateral or insolvency, under the terms of the intercreditor agreement that we anticipate entering into, proceeds of such enforcement will be used first to pay obligations outstanding under our new revolving credit facility in full (including post-petition interest, whether or not allowable in any bankruptcy case) and certain other permitted indebtedness and then to pay the notes. To prevent foreclosure, we may be motivated to commence voluntary bankruptcy proceedings, or the holders of the notes and/or various other interested persons may be motivated to institute bankruptcy proceedings against us. The commencement of such bankruptcy proceedings would expose the holders of the notes to additional risks, including additional restrictions on exercising rights against collateral. See *Rights of holders of notes in the collateral may be adversely affected by bankruptcy proceedings*.

Our new revolving credit facility and the indenture governing the notes will allow us to incur additional obligations secured by liens in amounts that may be significant. Any additional indebtedness or obligations secured by a lien on the collateral securing the notes could adversely affect the relative position of the holders of the notes with respect to the collateral securing the notes.

The collateral may be subject to exceptions, defects, encumbrances, liens and other imperfections. Further, the value of the collateral at any time will depend on market and other economic conditions, including the availability of suitable buyers for the collateral. By its nature, some or all of the collateral may be illiquid and may have no readily ascertainable market value. The value of the assets pledged as collateral for the notes could be impaired in the future as a result of changing trends in the energy markets, economic conditions, our failure to implement our business strategy, competition or other future trends. In the event of a foreclosure, liquidation, bankruptcy or similar proceeding, no assurance can be given that the proceeds from any sale or liquidation of the collateral securing our obligations under our new revolving credit facility will be sufficient to pay our obligations under the notes, in full or at all, after first satisfying our obligations in full under our new revolving credit facility and certain other permitted indebtedness. There also can be no assurance that the collateral will be saleable, and, even if saleable, the timing of its liquidation would be uncertain.

In addition, we may not have liens perfected on all of the collateral securing the notes or, in some cases, such liens may not be perfected at all. To the extent certain security interests have not been previously granted, filed and/or perfected, a covenant in the indenture governing the notes requires us to do or cause to be done all things that may be required under applicable law, or that the trustee under the indenture governing the notes from time to time may reasonably request, to grant, preserve, protect and perfect the validity and priority of the security interest in the collateral. We cannot assure you that we will be able to perfect the security interests on a timely basis, and our failure to do so may result in a default under the indenture, our new revolving credit facility and the security documents.

Accordingly, there may not be sufficient collateral to pay all or any of the amounts due on the notes. Any claim for the difference between the amount, if any, realized by holders of the notes from the sale of the collateral securing the notes and the obligations under the notes will rank equally in right of payment with all of our other unsecured unsubordinated indebtedness and other obligations, including trade payables.

With respect to some of the collateral, the trustee's security interest and ability to foreclose will also be limited by the need to meet certain requirements, such as obtaining third-party consents and making additional filings. If we are unable to obtain these consents or make these filings, the security interests may be invalid and the holders will not be entitled to the collateral or any recovery with respect thereto. We cannot assure you that any such required consents can be obtained on a timely basis or at all. These requirements may limit the number of potential bidders for certain collateral in any foreclosure and may delay any sale, either of which events may have an adverse effect on the sale price of the collateral. Therefore, the practical value of realizing on the collateral may, without the appropriate consents and filings, be limited.

***The collateral is subject to casualty risks.***

We will be obligated under the indenture and collateral arrangements governing the notes to maintain adequate insurance or otherwise insure against hazards as is typically done by corporations having assets of a similar nature in the same or similar localities. There are, however, certain losses that may be either uninsurable or not economically insurable, in whole or in part. As a result, it is possible that the insurance proceeds will not compensate us fully for our losses. If there is a total or partial loss of any of the pledged collateral, we cannot assure you that any insurance proceeds received by us will be sufficient to satisfy all of our secured obligations, including the notes.

***The security interest in after-acquired property may not be perfected promptly or at all.***

Applicable law requires that security interests in certain property acquired after the grant of a general security interest can only be perfected at the time such property and rights are acquired and identified. There can be no assurance that the trustee or the collateral agent will monitor, or that we will inform such trustee or collateral agent of, the future acquisition of property and rights that constitute collateral, and that the necessary action will be taken to properly perfect the security interest in such after-acquired collateral. Neither the trustee nor the collateral agent has an obligation to monitor the acquisition of additional property or rights that constitute collateral or the perfection of any security interest. Such failure may result in the loss of the security interest in certain of the after-acquired collateral or the priority of the security interest in favor of the notes against third parties.

***There are circumstances other than repayment or discharge of the notes under which the collateral securing the notes and guarantees will be released automatically, without holders' consent or the consent of the trustee under the indenture governing the notes.***

Under various circumstances, all or a portion of the collateral securing the notes and the guarantees may be released automatically, including:

a sale, transfer or other disposal of such collateral in a transaction not prohibited under the indenture governing the notes or the documentation governing our new revolving credit facility, including the sale of any entity in its entirety that owns or holds such collateral;

to the extent required in accordance with the intercreditor agreement that we expect to enter into;

to the extent we have defeased or satisfied and discharged the indenture governing the notes; and

with respect to collateral held by a guarantor, upon the release of such guarantor from its guarantee.

In addition, a guarantee will be automatically released in connection with a sale of such guarantor in a transaction not prohibited under the indenture governing the notes.

***Certain assets will be excluded from the collateral.***

Certain assets are excluded from the collateral securing the notes, as described in Description of the Exchange Notes Security, including the following:

any capital stock of any foreign subsidiaries of the guarantors in excess of 65% of the capital stock of such foreign subsidiaries;

items as to which a security interest cannot be granted without violating contract rights or applicable law;

assets securing purchase money debt or capitalized lease obligations permitted to be incurred under the indenture to the extent the documentation relating to such purchase money debt or capitalized lease obligations prohibits such assets from being collateral; and

certain other exceptions described in the security documents governing the notes.

If an event of default occurs and the notes are accelerated, the notes will rank equally with the holders of all of our other unsubordinated and unsecured indebtedness and other liabilities with respect to such excluded assets. As a result, if the value of the security interest for the notes and the guarantees is less than the value of the claims of the holders of the notes, no assurance can be provided that the holders of the notes would receive any substantial recovery from the excluded assets.

***The rights of holders of notes in the collateral may be adversely affected by the intercreditor agreement.***

Under the terms of the intercreditor agreement that we expect to enter into, we expect that the liens securing the obligations under our new revolving credit facility and certain other permitted indebtedness on assets of ours or the guarantors will generally

rank equally with the liens on such assets securing ours and the guarantors' obligations under the notes and the guarantees. However, we expect the intercreditor agreement to provide that the obligations under our new revolving credit facility (including post-petition interest, whether or not allowable in any bankruptcy case) and certain other permitted indebtedness will be paid prior to the obligations under the notes and guarantees in the event of any foreclosure or bankruptcy event. Additionally, we expect that the intercreditor agreement will generally permit each of the notes trustee, the collateral agent for the lenders under our new revolving credit facility and the collateral agent for any other holders of pari passu lien indebtedness to independently enforce their liens on the collateral (provided that distributions received on enforcement are applied as provided in the intercreditor agreement). Moreover, there can be no assurance that the terms of the intercreditor agreement as agreed to will be as favorable to holders of the notes as the descriptions thereof in *Description of the Exchange Notes Intercreditor Agreement* or that the terms will be commercially reasonable or customary. It is possible that disputes may occur between the holders of the notes and lenders under our new revolving credit facility or other secured parties as to the appropriate manner of pursuing enforcement remedies with respect to the collateral which may delay enforcement of the collateral, result in litigation and/or result in enforcement actions against the collateral that are not approved by the holders of the notes. See *Description of the Exchange Notes Security* and *Description of the Exchange Notes Intercreditor Agreement*.

***Rights of holders of notes in the collateral may be adversely affected by bankruptcy proceedings.***

The right of the collateral agent for the notes to repossess and dispose of the collateral securing the notes upon acceleration is likely to be significantly impaired by federal bankruptcy law if bankruptcy proceedings are commenced by or against us prior to or possibly even after the collateral agent has repossessed and disposed of the collateral. Under the U.S. Bankruptcy Code, a secured creditor, such as the collateral agent for the notes, is prohibited from repossessing its security from a debtor in a bankruptcy case, or from disposing of security repossessed from a debtor, without bankruptcy court approval. Moreover, bankruptcy law permits the debtor to continue to retain and to use collateral, and the proceeds, products, rents, or profits of the collateral, even though the debtor is in default under the applicable debt instruments, provided that the secured creditor is given adequate protection. The meaning of the term adequate protection may vary according to circumstances, but it is intended in general to protect the value of the secured creditor's interest in the collateral and may include cash payments or the granting of additional security, if and at such time as the court in its discretion determines, for any diminution in the value of the collateral as a result of the stay of repossession or disposition or any use of the collateral by the debtor during the pendency of the bankruptcy case. In view of the broad discretionary powers of a bankruptcy court, it is impossible to predict how long payments under the notes could be delayed following commencement of a bankruptcy case, whether or when the collateral agent would repossess or dispose of the collateral, or whether or to what extent holders of the notes would be compensated for any delay in payment or loss of value of the collateral through the requirements of adequate protection. Furthermore, in the event the bankruptcy court determines that the value of the collateral is not sufficient to repay all amounts due on the notes, the holders of the notes would have undersecured claims as to the difference. Federal bankruptcy laws do not permit the payment or accrual of interest, costs, and attorneys' fees for undersecured claims during the debtor's bankruptcy case. Additionally, the trustee's ability to foreclose on the collateral on your behalf may be subject to the consent of third parties, prior liens and practical problems associated with the realization of the trustee's security interest in the collateral. Moreover, the debtor or trustee in a bankruptcy case may seek to avoid an alleged security interest in collateral for the benefit of the bankruptcy estate. It may successfully do so if the security interest is not properly perfected or was perfected within a specified period of time (generally 90 days) prior to the initiation of such proceeding. Under such circumstances, a creditor may hold no security interest and be treated as holding a general unsecured claim in the bankruptcy case. It is impossible to predict what recovery (if any) would be available for such an unsecured claim if we became a debtor in a bankruptcy case. While U.S. bankruptcy law generally invalidates provisions restricting a debtor's ability to assume and/or assign a contract, there are exceptions to this rule which could be applicable in the event that we become subject to a U.S. bankruptcy proceeding.

***Any future pledge of collateral may be avoidable in bankruptcy.***

Any future pledge of collateral in favor of the trustee or collateral agent for the notes, including pursuant to security documents delivered after the date of the indenture governing the notes, may be avoidable in bankruptcy if certain events or circumstances exist or occur, including, among others, if:

the pledgor is insolvent at the time of the pledge, the pledge permits the holder of the notes to receive a greater recovery than if the pledge had not been given; and

a bankruptcy proceeding in respect of the pledgor is commenced within 90 days following the pledge, or, in certain circumstances, a longer period.

***Federal, state and foreign fraudulent transfer laws may permit a court to avoid the notes and the guarantees, subordinate claims in respect of the notes and the guarantees and require noteholders to return payments received. If this occurs, noteholders may not receive any payments on the notes.***

Federal, state and foreign fraudulent transfer and conveyance statutes may apply to the issuance of the notes and the incurrence of any guarantees. Under federal bankruptcy law and comparable provisions of state fraudulent transfer or conveyance laws, which may vary from state to state and be different from other applicable foreign jurisdictions, the notes or guarantees could be avoided as a fraudulent transfer or conveyance if (1) we or any of the guarantors, as applicable, issued the notes or incurred the guarantees with the intent of hindering, delaying or defrauding creditors or (2) we or any of the guarantors, as applicable, received less than reasonably equivalent value or fair consideration in return for either issuing the notes or incurring the guarantees and, in the case of (2) only, one of the following is also true at the time thereof:

we or any of the guarantors, as applicable, were insolvent or rendered insolvent by reason of the issuance of the notes or the incurrence of the guarantees;

the issuance of the notes or the incurrence of the guarantees left us or any of the guarantors, as applicable, with an unreasonably small amount of capital to carry on the business;

we or any of the guarantors intended to, or believed that we or such guarantor would, incur debts beyond our or such guarantor's ability to pay such debts as they mature; or

we or any of the guarantors was a defendant in an action for money damages, or had a judgment for money damages docketed against us or such guarantor if, in either case, after final judgment, the judgment is unsatisfied.

A court would likely find that we or a guarantor did not receive reasonably equivalent value or fair consideration for the notes or such guarantee if we or such guarantor did not substantially benefit directly or indirectly from the issuance of the notes or the applicable guarantee. As a general matter, value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied. A debtor will generally not be considered to have received value in connection with a debt offering if the debtor uses the proceeds of that offering to make a dividend payment or otherwise retire or redeem equity securities issued by the debtor.

We cannot be certain as to the standards a court would use to determine whether or not we or the guarantors were solvent at the relevant time or, regardless of the standard that a court uses, that the issuance of the guarantees would not be further subordinated to our other debt or the debt of the guarantors. Generally, however, an entity would be considered insolvent if, at the time it incurred indebtedness:

the sum of its debts, including contingent liabilities, was greater than the fair saleable value of all its assets;

the present fair saleable value of its assets was less than the amount that would be required to pay its probable liability on its existing debts, including contingent liabilities, as they become absolute and mature; or

it could not pay its debts as they become due.

If a court were to find that the issuance of the notes or the incurrence of the guarantee was a fraudulent transfer or conveyance, the court could avoid the payment obligations under the notes or such guarantee or further subordinate the notes or such guarantee to our presently existing and future indebtedness or of the related guarantor, or require the holders of the notes to repay any amounts received with respect to such guarantee. In the event of a finding that a fraudulent transfer or conveyance occurred, noteholders may not receive any repayment on the notes. Further, the avoidance of the notes could result in an event of default with respect to our other debt that could result in acceleration of such debt.

Although each guarantee entered into by the guarantors contains a provision intended to limit that guarantor's liability to the maximum amount that it could incur without causing the incurrence of obligations under its guarantee to be a fraudulent transfer, this provision may not be effective to protect those guarantees from being avoided under fraudulent transfer law, or may reduce that guarantor's obligation to an amount that effectively makes its guarantee worthless.

In addition, different or additional fraudulent conveyance laws may exist in foreign jurisdictions which could result in the liens being avoided.

If the guarantees by the subsidiary guarantors are not enforceable, the notes would be effectively subordinated to all liabilities of the subsidiary guarantors, including trade payables.

***The value of the collateral securing the notes and the guarantees may not be sufficient to secure post-petition interest.***

In the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding against us, holders of the notes will only be entitled to post-petition interest under the U.S. Bankruptcy Code to the extent that the value of their security interest in the collateral securing the notes and the guarantees is greater than their pre-bankruptcy claim. Holders of the notes that have a security interest in collateral with a value equal or less than their prebankruptcy claim will not be entitled to post-petition interest under the U.S. Bankruptcy Code. No appraisal of the fair market value of the collateral has been prepared in connection with the exchange offer and therefore the value of the noteholders interest in the collateral may not equal or exceed the principal amount of the notes.

***The notes could be wholly or partially voided as a preferential transfer.***

If we or any guarantor become the subject of a bankruptcy proceeding within 90 days after the date of the indenture (or, with respect to any insiders specified in bankruptcy law who are holders of the notes, within one year after we issue the notes), and the court determines that we were insolvent at the time of the closing (under the preference laws, we would be presumed to have been insolvent on and during the 90 days immediately preceding the date of filing of any bankruptcy petition), the court could find that the incurrence of the obligations under the notes involved a preferential transfer. In addition, to the extent that certain of our collateral is not perfected until after closing, such 90-day preferential transfer period would begin on the date of perfection. If the court determined that the granting of the security interest was therefore a preferential transfer, which did not qualify for any defense under bankruptcy law, then holders of the notes would be unsecured creditors with claims that ranked *pari passu* with all other unsecured creditors of the applicable obligor, including trade creditors. In addition, under such circumstances, the value of any consideration holders received pursuant to the notes, including upon foreclosure of the collateral securing the notes and the guarantees, could also be subject to recovery from such holders and possibly from subsequent assignees, or such holders might be returned to the same position they held as holders of the notes.

***The notes currently have no established trading or other public market, and an active trading market may not develop for the notes. The failure of a market to develop for the notes could affect the liquidity and value of the notes and you may not be able to sell the notes readily, or at all, or at or above the price that you paid.***

The notes constitute a new issue of securities with no established trading market. We do not intend to apply for the notes to be listed on any securities exchange or to arrange for quotation on any automated dealer quotation system. A market may not develop for the notes, and you may not be able to sell any of your notes at a particular time, at favorable prices or at all. As a result, we cannot assure you as to the liquidity of any trading market for any of the notes. Accordingly, you may be required to bear the financial risk of your investment in the notes indefinitely. If a trading market were to develop, future trading prices of the notes may be volatile and will depend on many factors, including:

our operating performance and financial condition or prospects;

the prospects for a company in our industry generally;

the number of holders of the notes;

prevailing interest rates;



the interest of securities dealers in making a market for the notes; and

the market for similar securities and the overall securities market.

***The trading price of the notes may be volatile.***

Historically, the market for non-investment grade debt, such as the notes, has been subject to disruptions that have caused substantial volatility in the prices of securities similar to the notes. Any such disruptions could adversely affect the prices at which you may sell your notes. In addition, the notes may trade at a discount from the initial offering price of the notes, depending on the prevailing interest rates, the market for similar notes, our performance and other factors, many of which are beyond our control.

## THE EXCHANGE OFFER

### Purpose of the Exchange Offer

We sold the outstanding notes in transactions that were exempt from or not subject to the registration requirements of the Securities Act. Accordingly, the outstanding notes are subject to transfer restrictions. In general, you may not offer or sell the outstanding notes unless either they are registered under the Securities Act or the offer or sale is exempt from or not subject to registration under the Securities Act and applicable state securities laws.

In connection with the sale of the outstanding notes, we entered into a registration rights agreement with the initial purchaser of the outstanding notes. We are offering the exchange notes under this prospectus in an exchange offer for the outstanding notes to satisfy our obligations under the registration rights agreement. The exchange offer will be open for at least 30 days (or longer, if required by applicable law). During the exchange offer period, we will exchange the exchange notes for all outstanding notes properly surrendered and not withdrawn before the expiration date. The exchange notes will be registered and the transfer restrictions, registration rights and provisions for additional interest relating to the outstanding notes will not apply to the exchange notes.

### Resale of Exchange Notes

Based on no-action letters of the SEC staff issued to third parties, we believe that exchange notes may be offered for resale, resold and otherwise transferred by you without further compliance with the registration and prospectus delivery provisions of the Securities Act if:

you are not an affiliate of us or any of the subsidiary guarantors within the meaning of Rule 405 under the Securities Act;

such exchange notes are acquired in the ordinary course of your business; and

you do not intend to participate in a distribution of the exchange notes and you have no arrangement or understanding with any person or entity to participate in the distribution of the exchange notes.

The SEC staff, however, has not considered the exchange offer for the exchange notes in the context of a no-action letter, and the SEC staff may not make a similar determination as in the no-action letters issued to these third parties.

If you tender in the exchange offer with the intention of participating in any manner in a distribution of the exchange notes, you

cannot rely on such interpretations by the SEC staff; and

must comply with the registration and prospectus delivery requirements of the Securities Act in connection with a secondary resale transaction.

Unless an exemption from registration is otherwise available, any securityholder intending to distribute exchange notes must be covered by an effective registration statement under the Securities Act. The registration statement should contain the selling securityholder's information required by Item 507 or 508, as applicable, of Regulation S-K under the Securities Act.

This prospectus may be used for an offer to resell, resale or other transfer of exchange notes only as specifically described in this prospectus. If you are a broker-dealer, you may participate in the exchange offer only if you acquired the outstanding notes as a result of market-making activities or other trading activities. Each broker-dealer that receives exchange notes for its own account in exchange for outstanding notes, where such outstanding notes were acquired by such broker-dealer as a result of market-making activities or other trading activities, must acknowledge by way of the letter of transmittal that it will deliver this prospectus in connection with any resale of the exchange notes. Please read the section captioned "Plan of Distribution" for more details regarding the transfer of exchange notes.

## **Terms of the Exchange Offer**

Subject to the terms and conditions described in this prospectus and in the letter of transmittal, we will accept for exchange any outstanding notes properly tendered and not withdrawn prior to 5:00 p.m., New York City time, on the expiration date of the exchange offer. We will issue exchange notes in principal amount equal to the principal amount of outstanding notes surrendered in the exchange offer. Outstanding notes may be tendered only for exchange notes and only in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The exchange offer is not conditioned upon any minimum aggregate principal amount of outstanding notes being tendered in the exchange offer.

As of the date of this prospectus, \$127,500,000 in aggregate principal amount of 12.5% Senior Secured Notes due 2016 are outstanding. This prospectus is being sent to DTC, the sole registered holder of the outstanding notes. There will be no fixed record date for determining registered holders of outstanding notes entitled to participate in the exchange offer.

We intend to conduct the exchange offer in accordance with the provisions of the registration rights agreement, the applicable requirements of the Securities Act and the Securities Exchange Act of 1934, as amended, or the Exchange Act, and the rules and regulations of the SEC. Outstanding notes whose holders do not tender for exchange in the exchange offer will remain outstanding and continue to accrue interest. These outstanding notes will be entitled to the rights and benefits such holders have under the indenture governing the outstanding notes and the registration rights agreement.

We will be deemed to have accepted for exchange properly tendered outstanding notes when we have given oral or written notice of the acceptance to the exchange agent and complied with the applicable provisions of the registration rights agreement. The exchange agent will act as agent for the tendering holders for the purposes of receiving the exchange notes from us.

If you tender outstanding notes in the exchange offer, you will be responsible for brokerage fees and commissions, transfer taxes and the fees and expenses of any legal counsel and any other advisors you engage with respect to the exchange of outstanding notes. Please read **Fees and Expenses** for more details regarding fees and expenses that we expect to pay in connection with the exchange offer.

We will return any outstanding notes that we do not accept for exchange for any reason without expense to their tendering holders promptly after the expiration or termination of the exchange offer.

## **Expiration Date**

The exchange offer will expire at 5:00 p.m., New York City time, on \_\_\_\_\_, 2011, unless, in our sole discretion, we extend it.

## **Extensions, Delays in Acceptance, Termination or Amendment**

We expressly reserve the right, at any time or various times, to extend the period of time during which the exchange offer is open. We may delay acceptance of any outstanding notes by giving oral or written notice of such extension to the holders at any time until the exchange offer expires or terminates. During any such extensions, all outstanding notes previously tendered will remain subject to the exchange offer, and we may accept them for exchange.

To extend the exchange offer, we will notify the exchange agent orally or in writing of any extension. We will notify the holders of outstanding notes of the extension via a press release issued no later than 9:00 a.m. New York City time on the business day after the previously scheduled expiration date.

If any of the conditions described below under Conditions to the Exchange Offer have not been satisfied, we reserve the right, in our sole discretion

to delay accepting for exchange any outstanding notes,

to extend the exchange offer, or

to terminate the exchange offer,  
by giving oral or written notice of such delay, extension or termination to the exchange agent. Subject to the terms of the registration rights agreement, we also reserve the right to amend the terms of the exchange offer in any manner.

Any such delay in acceptance, extension, termination or amendment will be followed promptly by oral or written notice thereof to holders of the outstanding notes. If we amend the exchange offer in a manner that we determine to constitute a material change, we will promptly disclose such amendment by means of a prospectus supplement. The prospectus supplement will be distributed to holders of the outstanding notes. Depending upon the significance of the amendment and the manner of disclosure to holders, we will extend the exchange offer if it would otherwise expire during such period. If an amendment constitutes a material change to the exchange offer, including the waiver of a material condition, we will extend the exchange offer, if necessary, to remain open for at least five business days after the date of the amendment. In the event we offer any consideration for the outstanding notes or in the percentage of outstanding notes being sought by us, we will extend the exchange offer to remain open for at least 10 business days after the date we provide notice of such increase or decrease to the registered holders of outstanding notes.

### **Conditions to the Exchange Offer**

We will not be required to accept for exchange, or exchange any exchange notes for, any outstanding notes if the exchange offer, or the making of any exchange by a holder of outstanding notes, would violate applicable law or SEC policy. Similarly, we may terminate the exchange offer as provided in this prospectus before accepting outstanding notes for exchange in the event of such a potential violation.

We will not be obligated to accept for exchange the outstanding notes of any holder that has not made to us the representations described under Procedures for Tendering and Plan of Distribution and such other representations as may be reasonably necessary under applicable SEC rules, regulations or interpretations to allow us to use an appropriate form to register the exchange notes under the Securities Act.

Additionally, we will not accept for exchange any outstanding notes tendered, and will not issue exchange notes in exchange for any such outstanding notes, if at such time any stop order has been threatened or is in effect with respect to the exchange offer registration statement of which this prospectus constitutes a part or the qualification of the indenture under the Trust Indenture Act of 1939.

We expressly reserve the right to amend or terminate the exchange offer, and to reject for exchange any outstanding notes not previously accepted for exchange, upon the occurrence of any of the conditions to the exchange offer specified above. We will promptly give oral or written notice of any extension, amendment, non-acceptance or termination to the holders of the outstanding notes.

These conditions are for our sole benefit, and we may assert them or waive them in whole or in part at any time or at various times prior to the expiration of the exchange offer in our sole discretion. If we fail at any time to exercise any of these rights, this failure will not mean that we have waived our rights. Each such right will be deemed an ongoing right that we may assert at any time or at various times prior to the expiration of the exchange offer.

### **Procedures for Tendering**

To participate in the exchange offer, you must properly tender your outstanding notes to the exchange agent as described below. We will only issue exchange notes in exchange for outstanding notes that you timely and properly tender. Therefore, you should allow sufficient time to ensure timely delivery of the outstanding notes, and you should follow carefully the instructions on how to tender your outstanding notes. It is your responsibility to properly tender your outstanding notes. We have the right to waive any defects. However, we are not required to waive defects, and neither we nor the exchange agent is required to notify you of any defects in your tender.

If you have any questions or need help in exchanging your outstanding notes, please call the exchange agent whose address and phone number are included in the letter of transmittal included as Annex A to this prospectus.

All of the outstanding notes were issued in book-entry form, and all of the outstanding notes are currently represented by global certificates registered in the name of Cede & Co., the nominee of DTC. We have confirmed with DTC that the outstanding notes may be tendered using ATOP. The exchange agent will establish an account with DTC for purposes of the exchange offer promptly after the commencement of the exchange offer, and DTC participants may electronically transmit their acceptance of the exchange offer by causing DTC to transfer their outstanding notes to the exchange agent using the ATOP procedures. In connection with the transfer, DTC will send an agent's message to the exchange agent. The agent's message will state that DTC has received instructions from the participant to tender outstanding notes and that the participant agrees to be bound by the terms of the letter of transmittal.

By using the ATOP procedures to exchange outstanding notes, you will not be required to deliver a letter of transmittal to the exchange agent. However, you will be bound by its terms just as if you had signed it.

There is no procedure for guaranteed late delivery of the outstanding notes.

*Determinations Under the Exchange Offer.* We will determine in our sole discretion all questions as to the validity, form, eligibility, time of receipt, acceptance of tendered outstanding notes and withdrawal of tendered outstanding notes. Our determination will be final and binding. We reserve the absolute right to reject any outstanding notes not properly tendered or any outstanding notes our acceptance of which would, in the opinion of our counsel, be unlawful. We also reserve the right to waive any defect, irregularities or conditions of tender as to particular outstanding notes. Our interpretation of the terms and conditions of the exchange offer, including the instructions in the letter of transmittal, will be final and binding on all parties. Unless waived, all defects or irregularities in connection with tenders of outstanding notes must be cured within such time as we shall determine. Although we intend to notify holders of defects or irregularities with respect to tenders of outstanding notes, neither we, the exchange agent nor any other person will incur any liability for failure to give such notification. Tenders of outstanding notes will not be deemed made until such defects or irregularities have been cured or waived. Any outstanding notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned to the tendering holder promptly following the expiration date of the exchange.

*When We Will Issue Exchange Notes.* In all cases, we will issue exchange notes for outstanding notes that we have accepted for exchange under the exchange offer only after the exchange agent receives, prior to 5:00 p.m., New York City time, on the expiration date,

a book-entry confirmation of such outstanding notes into the exchange agent's account at DTC; and

a properly transmitted agent's message.

Such exchange notes will be issued promptly following the expiration or termination of the offer.

*Return of Outstanding Notes Not Accepted or Exchanged.* If we do not accept a holder's tendered outstanding notes for exchange or if outstanding notes are submitted for a greater principal amount than the holder desires to exchange, the unaccepted or non-exchanged outstanding notes will be returned without expense to their tendering holder. Such non-exchanged outstanding notes will be credited to an account maintained with DTC. These actions will occur promptly after the expiration or termination of the exchange offer.

*Your Representations to Us.* By agreeing to be bound by the letter of transmittal, you will represent to us that, among other things:

any exchange notes that you receive will be acquired in the ordinary course of your business;

you are not engaged in and do not intend to engage in the distribution of the exchange notes;

you have no arrangement or understanding with any person or entity to participate in the distribution of the exchange notes;

you are not an affiliate, as defined in Rule 405 under the Securities Act, of us or our subsidiary guarantors or, if you are an affiliate, that you will comply with the registration and prospectus delivery requirements of



the Securities Act to the extent applicable; and

if you are a broker-dealer that will receive exchange notes for your own account in exchange for outstanding notes, you acquired those outstanding notes as a result of market-making activities or other trading activities and you will deliver this prospectus, as required by law, in connection with any resale of the exchange notes.

**Withdrawal of Tenders**

Except as otherwise provided in this prospectus, you may withdraw your tender at any time prior to 5:00 p.m., New York City time, on the expiration date of the exchange offer. For a withdrawal to be effective you must comply with the appropriate ATOP procedures. Any notice of withdrawal must specify the name and number of the account at DTC to be credited with withdrawn outstanding notes and otherwise comply with the ATOP procedures.

We will determine all questions as to the validity, form, eligibility and time of receipt of a notice of withdrawal. Our determination shall be final and binding on all parties. We will deem any outstanding notes so withdrawn not to have been validly tendered for exchange for purposes of the exchange offer.

Any outstanding notes that have been tendered for exchange but that are not exchanged for any reason will be credited to an account maintained with DTC for the outstanding notes. This return or crediting will take place promptly after withdrawal, rejection of tender, expiration or termination of the exchange offer. You may retender properly withdrawn outstanding notes by

following the procedures described under Procedures for Tendering above at any time on or prior to the expiration date or termination date of the exchange offer.

### **Fees and Expenses**

We will bear the expenses of soliciting tenders. The principal solicitation is being made by mail; however, we may make additional solicitation by e-mail, telephone or in person by our officers and regular employees and those of our affiliates.

We have not retained any dealer-manager in connection with the exchange offer and will not make any payments to broker-dealers or others soliciting acceptances of the exchange offer. We will, however, pay the exchange agent reasonable and customary fees for its services and reimburse it for its related reasonable out-of-pocket expenses.

We will pay the cash expenses to be incurred in connection with the exchange offer. They include:

SEC registration fees;

fees and expenses of the exchange agent and trustee;

accounting and legal fees and printing costs; and

related fees and expenses.

### **Transfer Taxes**

Each tendering holder will pay all transfer taxes, if any, applicable to the exchange of outstanding notes under the exchange offer.

### **Consequences of Failure to Exchange**

If you do not exchange your outstanding notes for exchange notes under the exchange offer, the outstanding notes you hold will continue to be subject to the existing restrictions on transfer. In general, you may not offer or sell the outstanding notes except under an exemption from, or in a transaction not subject to, the Securities Act and applicable state securities laws. We do not intend to register outstanding notes under the Securities Act unless the registration rights agreement requires us to do so.

Any tenders of outstanding notes under the exchange offer will reduce the principal amount of the currently outstanding notes. Due to the corresponding reduction in liquidity, this may have an adverse effect upon, and increase the volatility of, the market price of any currently outstanding notes that you continue to hold following completion of the exchange offer.

### **Accounting Treatment**

We will record the exchange notes in our accounting records at the same carrying value as the outstanding notes. This carrying value is the face value of the outstanding notes, less the original issue discount (net of amortization) as reflected in our accounting records on the date of exchange. Accordingly, we will not recognize any gain or loss for accounting purposes in connection with the exchange offer, other than the recognition of the fees and expenses of the offering as stated under Fees and Expenses.

**Other**

Participation in the exchange offer is voluntary, and you should consider carefully whether to accept. You are urged to consult your financial and tax advisors in making your own decision on what action to take.

We may in the future seek to acquire untendered outstanding notes in open market or privately negotiated transactions, through subsequent exchange offers or otherwise. We have no present plans to acquire any outstanding notes that are not tendered in the exchange offer or to file a registration statement to permit resales of any untendered outstanding notes.

## USE OF PROCEEDS

The exchange offer is intended to satisfy our obligations under the registration rights agreement. We will not receive any cash proceeds from the issuance of the exchange notes in the exchange offer. In consideration for issuing the exchange notes as contemplated by this prospectus, we will receive outstanding notes in a like principal amount. The form and terms of the exchange notes are identical in all respects to the form and terms of the outstanding notes, except the exchange notes do not include certain transfer restrictions, registration rights or provisions for additional interest. Outstanding notes surrendered in exchange for the exchange notes will be retired and cancelled and will not be reissued. Accordingly, the issuance of the exchange notes will not result in any change in our outstanding indebtedness.

## DESCRIPTION OF THE EXCHANGE NOTES

The exchange notes will be issued, and the outstanding notes were issued, under an indenture (the *Indenture*) dated as of July 12, 2011, as amended or supplemented from time to time, among the Company, all of the Company's existing direct and indirect wholly-owned Domestic Subsidiaries, as guarantors (the *Guarantors*) and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the *Trustee*) and as collateral agent (in such capacity, the *Collateral Agent*). The terms of the notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the *Trust Indenture Act* or *TIA*).

The following description is a summary of the material terms and provisions of the notes, the Indenture, the Security Documents and the Intercreditor Agreement. It does not purport to be a complete description of the notes or such agreements and is subject to the detailed provisions of, and qualified in its entirety by reference to, the notes, the Indenture, the Security Documents and the Intercreditor Agreement. We urge you to read the Indenture, the notes, the Security Documents and the Intercreditor Agreement because they, and not this description, define your rights as holders of the notes.

You can find the definitions of certain terms used in this description under the subheading *Certain Definitions*. In this description, the words *Issuer*, *we*, *us*, and *our* refer only to Saratoga Resources, Inc. and not to any of its subsidiaries and that term *Guarantor* refers to each Domestic Subsidiary that guarantees the notes, so long as it guarantees the notes. The term *notes* refers to both the outstanding notes issued on July 12, 2011 and the exchange notes, unless the context otherwise requires.

If the exchange offer is consummated, the exchange notes and the outstanding notes will together constitute a single series of debt securities under the Indenture. Holders of outstanding notes who do not exchange their outstanding notes for exchange notes will vote together with the Holders of the exchange notes for all relevant purposes under the Indenture. In that regard, the Indenture requires that certain actions by the Holders under the Indenture (including acceleration after an Event of Default) must be taken, and certain rights must be exercised, by specified minimum percentages of the aggregate principal amount of all outstanding notes issued under the Indenture. In determining whether Holders of the requisite percentage in principal amount have given any notice, consent or waiver or taken any other action permitted under the Indenture, any unexchanged outstanding notes that remain outstanding after the exchange offer will be aggregated with the exchange notes, and the Holders of these outstanding notes and exchange notes will vote together as a single series for all such purposes. Accordingly, all references in this section of the prospectus to specified percentages in aggregate principal amount of the outstanding notes mean, at any time after the exchange offer is consummated, such percentage in aggregate principal amount of the outstanding notes and the exchange notes.

The registered Holder of a note will be treated as the owner of it for all purposes. Only registered Holders will have rights under the Indenture.

**Brief Description of the Notes and the Note Guarantees**

*The Notes*

The notes will:

be the general senior obligations of the Issuer;

rank equal in right of payment with all of the Issuer's existing and future senior indebtedness;

be effectively senior to all of the Issuer's existing and future unsecured indebtedness to the extent of the value of the Collateral securing the notes;

be effectively subordinated to the Issuer's obligations under any First Lien Obligations to the extent of the value of the Collateral securing such indebtedness;

be secured on a second-priority basis (to the extent First Lien Obligations exist) by Liens on the Collateral described herein, subject to Permitted Liens;

be structurally subordinated to all existing and future indebtedness and other liabilities of the Issuer's subsidiaries that do not guarantee the notes; and

be fully and unconditionally guaranteed, jointly and severally, on a senior secured basis by each Guarantor as set forth herein.

### ***The Note Guarantees***

The notes will be guaranteed fully and unconditionally, jointly and severally, by all of the Issuer's existing and future Domestic Subsidiaries.

Each guarantee of the notes will:

be a general senior obligation of each Guarantor;

rank equal in right of payment with all of such Guarantor's existing and future senior indebtedness;

be secured on a second-priority basis (to the extent First Lien Obligations exist) by Liens on the Collateral described herein, subject to Permitted Liens;

be effectively senior to all of such Guarantor's existing and future unsecured indebtedness to the extent of the value of the Collateral securing such guarantee;

be effectively subordinated to each Guarantor's obligations under any First Lien Obligations and certain other Indebtedness to the extent of the value of the Collateral securing such indebtedness; and

be structurally subordinated to all existing and future indebtedness and other liabilities of such Guarantor's subsidiaries that do not guarantee the notes.

As of the date hereof, all of our Subsidiaries will be Restricted Subsidiaries. However, under the circumstances described below under the caption Certain Covenants Designation of Restricted and Unrestricted Subsidiaries, we will be permitted to designate certain of our Subsidiaries as Unrestricted Subsidiaries. Our Unrestricted Subsidiaries will not be subject to the restrictive covenants in the Indenture and will not guarantee the notes.

### **Principal, Maturity and Interest**

The Issuer issued the outstanding notes in an initial maximum aggregate principal amount of \$127.5 million. The Issuer may issue additional notes under the Indenture from time to time. Any issuance of additional notes is subject to all of the covenants in the Indenture, including the covenant described below under the caption Certain

Covenants Incurrence of Indebtedness and Issuance of Preferred Stock. The notes and any additional notes subsequently issued under the Indenture will be treated as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase, the Security Documents, the registration rights agreement and the Intercreditor Agreement. Unless the context requires otherwise, references to notes for all purposes of the Indenture and this Description of Notes include any additional notes that are actually issued under the Indenture. The Issuer will issue notes in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The notes will mature on July 1, 2016.

Interest on the notes will accrue at the rate of  $12\frac{1}{2}\%$  per annum and will be payable semi-annually in arrears on January 1 and July 1 of each year, commencing on January 1, 2012. Interest on overdue principal and interest, including Additional Interest, if any, will accrue at a rate that is 2% higher than the then applicable interest rate on the notes. The Issuer will make each interest payment to the holders of record on the immediately preceding December 15 and June 15.

Interest on the notes will accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Additional Interest may accrue and be payable under the circumstances set forth in Exchange Offer; Registration Rights.

### **Methods of Receiving Payments on the Notes**

If a holder of notes has given wire transfer instructions to the Issuer, the Issuer will pay all principal, interest and premium and Additional Interest, if any, on that holder's notes in accordance with those instructions. All other payments on the notes will be made at the office or agency of the paying agent and registrar unless the Issuer elects to make interest payments by check mailed to the noteholders at their respective addresses set forth in the register of holders; *provided* that all payments of principal of, and interest and premium with respect to, the notes represented by one or more global notes registered in the name of, or held by, DTC or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the holder or holders thereof.

### **Paying Agent and Registrar for the Notes**

The Trustee will initially act as paying agent and registrar. The Issuer may change the paying agent or registrar without prior notice to the holders of the notes, and the Issuer or any of its Subsidiaries may act as paying agent or registrar.

### **Transfer and Exchange**

A holder may transfer or exchange notes in accordance with the provisions of the Indenture. The registrar and the Trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of notes. The Issuer will be required to pay all taxes due on transfer. The Issuer will not be required to transfer or exchange any note selected for redemption. In addition, the Issuer will not be required to transfer or exchange any note for a period of 15 days before a selection of notes to be redeemed.

### **Note Guarantees**

The notes will be guaranteed by each of the Issuer's current and future Domestic Subsidiaries. These Note Guarantees will be joint and several obligations of the Guarantors. The obligations of each Guarantor under its Note Guarantee will be limited as necessary to prevent that Note Guarantee from constituting a fraudulent conveyance under applicable law. See Risk Factors Risks Related to the Notes *Federal, state and foreign fraudulent transfer laws may permit a court to avoid the notes and the guarantees, subordinate claims in respect of the notes and the guarantees and require noteholders to return payments received. If this occurs, noteholders may not receive any payments on the notes.* In the event of a bankruptcy, liquidation or reorganization of any of the non-Guarantor Subsidiaries, these non-Guarantor Subsidiaries will pay the holders of their liabilities, including their debt and trade payables, and preferred stock before they will be able to distribute any of their assets to us. As of the Issue Date, all of our Subsidiaries will be Restricted Subsidiaries.

A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Issuer or another Guarantor, unless:

(1)

immediately after giving effect to that transaction, no Default or Event of Default exists; and

(2)

either:

(a)



the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger assumes all the obligations of that Guarantor under the Indenture and its Note Guarantee pursuant to a supplemental indenture, the registration rights agreement and the Intercreditor Agreement and the other Security Documents, each satisfactory to the Trustee; or

(b)

the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of the Indenture.

The Note Guarantee of a Guarantor will be released:

(1)

in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if the sale or other disposition does not violate the Asset Sale provisions of the Indenture;

(2)

in connection with any sale, transfer or other disposition of all of the Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if the sale, transfer or other disposition does not violate the Asset Sale provisions of the Indenture;

(3)

if the Issuer designates any Restricted Subsidiary that is a Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the Indenture; or

(4)

upon legal defeasance or satisfaction and discharge of the Indenture as provided below under the captions Legal Defeasance and Covenant Defeasance and Satisfaction and Discharge.

See Repurchase at the Option of Holders Asset Sales.

Under the circumstances described below under the caption Certain Covenants Designation of Restricted and Unrestricted Subsidiaries, the Issuer will be permitted to designate certain of its Subsidiaries as Unrestricted Subsidiaries. The effect of designating a Subsidiary as an Unrestricted Subsidiary will be:

the Unrestricted Subsidiary will not be subject to most of the restrictive covenants in the Indenture;

a Subsidiary that has previously been a Guarantor and that is designated as an Unrestricted Subsidiary will be released from its Note Guarantee; and

the assets, income, cash flow and other financial results of the Unrestricted Subsidiary will not be consolidated with those of the Issuer for purposes of calculating compliance with the restrictive covenants contained in the Indenture.

## Security

Pursuant to the Security Documents entered into by the Issuer, the Guarantors and the Collateral Agent for the benefit of the Collateral Agent, the Trustee and the holders of notes, the notes, the Note Guarantees and all other Obligations under the Indenture are secured by a Lien on substantially all of the Issuer's and the Guarantors' existing and future tangible and intangible assets (other than Excluded Assets), including (without limitation):

(1)

accounts receivables;

(2)

equipment, goods, inventory and fixtures;

(3)

documents, instruments and chattel paper;

(4)

letter-of-credit rights;

- (5)  
securities collateral;
- (6)  
investment property (as defined in the UCC), including all Capital Stock of the Issuer's Subsidiaries;
- (7)  
copyrights and trademarks;
- (8)  
commercial tort claims;
- (9)  
general intangibles;
- (10)  
deposit accounts;
- (11)  
cash;
- (12)  
supporting obligations;
- (13)  
books and records;
- (14)  
real property;
- (15)  
As-Extracted Collateral;
- (16)  
Oil and Gas Properties;
- (17)

to the extent not covered by clauses (1) through (16) above, all other personal property of the Issuer and each Guarantor, whether tangible or intangible;

(18)

proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for each of the foregoing, and any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Issuer or any Guarantor from time to time with respect to any of the foregoing; and

(19)

all other existing and future tangible and intangible assets that from time to time become subject to a Lien securing First Lien Obligations.

Clauses (1) through (19) above are herein collectively referred to as Collateral (to the extent such assets do not constitute Excluded Assets).

The Issuer shall cause each applicable Restricted Subsidiary to, at their sole cost and expense, (i) execute and deliver all such agreements and instruments as necessary (or as the Collateral Agent may reasonably request) to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Security Documents and (ii) file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Security Documents at such times and at such places as are necessary (or as the Collateral Agent may reasonably request), in each case subject to the terms of the Security Documents and the First Lien Security Documents, including any waivers thereunder by the First Lien Agent. Certain security interests in the Collateral may not be in place on the Issue Date or may not be perfected on the Issue Date. See Certain Covenants Post-Closing.

Notwithstanding the foregoing, the Collateral will not include any of the following assets (collectively, the *Excluded Assets*):

(1)

any asset or property right of the Issuer or any Guarantor of any nature:

(a)

if the grant of a security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of such asset or property right or the Issuer's or any Guarantor's loss of use of such asset or property right or (ii) a breach, termination or default under any lease, license, contract or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the United States Bankruptcy Code) or principles of equity) to which the Issuer or such Guarantor is party; and

(b)

to the extent that any applicable law or regulation prohibits the creation of a security interest thereon (other than to the extent that any such term would be rendered ineffective pursuant to any applicable law or principles of equity);

*provided, however*, that such lease, license, contract, property rights or other agreement will cease to be an Excluded Asset immediately and automatically at such time as the condition causing such abandonment, invalidation or unenforceability is remedied and, to the extent severable, any portion of such lease, license, contract, property rights or other agreement that does not result in any of the consequences specified in clauses (a) and (b) in this clause (1) will not be an Excluded Asset; *provided further* that the Issuer shall, and shall cause each Restricted Subsidiary to, make all commercially reasonable efforts to prevent any asset or property, including but not limited to Permitted Business Investments, from constituting Excluded Assets;

(2)

Voting Stock of any Foreign Subsidiary (to the extent such Foreign Subsidiary is a controlled foreign corporation for U.S. federal income tax purposes) that is directly owned by the Issuer or any Guarantor, solely to the extent

representing in excess of 65% of the total voting power of all outstanding Voting Stock of such Foreign Subsidiary and all Capital Stock of Foreign Subsidiaries not directly owned by any Person that is the Issuer or a Guarantor;

(3)

any foreign intellectual property;

(4)

any applications for trademarks or service marks filed in the United States Patent and Trademark Office pursuant to 15 U.S.C. § 1051 Section 1(b) unless and until evidence of use of the mark in interstate commerce is submitted to the PTO pursuant to 15 U.S.C. § 1051 Section 1(c) or Section 1(d);

(5)

(i) deposit and securities accounts the balance of which consists exclusively of (a) withheld income taxes and federal, state or local employment taxes in such amounts as are required to be paid to the Internal Revenue Service or state or local government agencies within the following two months with respect to employees of the Issuer or any Guarantor, and (b) amounts required to be paid over to an employee benefit plan pursuant to DOL Reg. Sec. 2510.3-102 on behalf of or for the benefit of employees of the Issuer or any Guarantor, and (ii) all segregated deposit accounts constituting (and the balance of which consists solely of funds set aside in connection with) tax accounts, payroll accounts and trust accounts;

(6)

fixed or capital assets owned by the Issuer or any Guarantor that is subject to a capital lease or purchase money obligations, in each case permitted to be incurred pursuant to the covenants described below under the captions

Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock and Certain Covenants Liens if the contract or other agreement in which such Lien is granted prohibits the creation of any other Lien on such fixed or capital assets, but only for so long as such prohibition is in effect and only with respect to the portion of such fixed or capital assets as to which such other Lien attaches and such prohibition applies; and

(7)

de minimus or immaterial assets for which perfection of the security could not be obtained without unreasonable cost and expense or under applicable law.

### **Intercreditor Agreement**

We intend to negotiate the terms of an Intercreditor Agreement among the Trustee, the First Lien Agent, on behalf of the First Lien Creditors (including the lenders under any Credit Agreement and our hedging counterparty), the Collateral Agent, on behalf of the Second Lien Creditors (including the holders of the notes), the Issuer and the Guarantors, which will, among other things, define the relative rights of the Trustee, the First Lien Agent and the First Lien Creditors and the Collateral Agent and the Second Lien Creditors and related matters with respect to the Collateral. By purchasing notes, each holder is deemed to have authorized the Collateral Agent and the Trustee to enter into the Intercreditor Agreement with the First Lien Agent, on such terms as the Issuer, the First Lien Agent and the Trustee agree, and each holder shall be bound by the terms of the Intercreditor Agreement.

Because we are currently negotiating the terms of the Intercreditor Agreement, the summary below is based on our expectation of what the terms and other provisions of the Intercreditor Agreement will be. However, there can be no assurance that the terms of the Intercreditor Agreement as agreed to will be as favorable to holders of the notes as the descriptions below or that the terms will be commercially reasonable or customary.

### ***Relative Lien Priorities; Notes Effectively Subordinated to First Lien Obligations***

The Intercreditor Agreement will provide that, notwithstanding the date, manner or order of grant, attachment or perfection of any Liens on Collateral securing the Obligations arising under the Credit Agreement together with all other First Lien Obligations ( First Priority Liens ) or any Liens thereon that secure the notes and the other Second Lien Obligations ( Second Priority Liens ), and notwithstanding any provision of the Uniform Commercial Code of any applicable jurisdiction or any other applicable law or the provisions of any First Lien Document or Second Lien Document or any other circumstance whatsoever, each of the First Lien Agent, on behalf of the First Lien Creditors, and the Collateral Agent, on behalf of the Second Lien Creditors, will agree that (a) any First Priority Liens then or thereafter held by or for the benefit of any First Lien Creditor will be senior in right, priority, operation, effect and all other respects to any and all Second Priority Liens and (b) any Second Priority Liens then or thereafter held by or for the benefit of any Second Lien Creditor will be junior and subordinate in right, priority, perfection, operation, effect and all other respects to any and all First Priority Liens, and the First Priority Liens will be and remain senior in right, priority, perfection, operation, effect and all other respects to any Second Priority Liens for all purposes.

As a result of the foregoing, the Second Lien Obligations will be effectively subordinated to the First Lien Obligations to the extent of the value of the Collateral.

### ***No Payment Subordination to First Lien Obligations***

The Intercreditor Agreement will provide that the subordination of Liens securing the Second Lien Obligations described herein affects only the relative priority of those Liens, and does not subordinate the Second Lien Obligations in right of payment to the First Lien Obligations. Nothing in the Intercreditor Agreement will affect the entitlement of any Second Lien Creditor to receive and retain required payments of interest, principal, and other amounts in respect of the Second Lien Obligations unless the receipt is expressly prohibited by, or results from the Second Lien Creditor's breach of, the Intercreditor Agreement.



***Prohibition on Contesting Liens; Additional Collateral***

The Intercreditor Agreement will provide that (a) each of the First Lien Agent, on behalf of the First Lien Creditors, and the Collateral Agent, on behalf of the Second Lien Creditors, will agree that it will not, and will waive any right to, contest or support any other Person in contesting, in any proceeding (including any insolvency or liquidation proceeding), the priority, validity, extent, perfection or enforceability of any First Priority Lien or any Second Priority Lien, as the case may be; *provided* that nothing in the Intercreditor Agreement will be construed to prevent or impair the rights of the First Lien Creditors or the Second Lien Creditors to enforce the Intercreditor Agreement to the extent provided thereby, including the provisions relating to the priority of Liens securing the First Lien Obligations and (b) if the Issuer or any Guarantor creates any additional Liens upon any property to secure (i) any First Lien Obligations, it must substantially concurrently grant a Lien upon such property as security for the Second Lien Obligations and (ii) the Second Lien Obligations, it must substantially concurrently grant a Lien upon such property as security for the First Lien Obligations. Subject to clauses (a) and (b) above, if a Second Lien Creditor hereafter acquires a Lien on property to secure a Second Lien Obligation where the property is not also subject to a Lien securing the First Lien Obligations, then such Second Lien Creditor will give First Lien Agent written notice of such Lien no later than five Business Days after acquiring such Lien. If First Lien Agent also obtains a Lien on such property or if such Second Lien Creditor fails to provide such timely notice to First Lien Agent, then such property will be deemed to be Collateral for all purposes thereunder. If the Collateral Agent or any Second Lien Creditor shall acquire any Lien on any property of the Issuer or any Guarantor or any of their respective Subsidiaries securing any Second Lien Obligations which property are not also subject to the Lien of the First Lien Agent under the First Lien Collateral Documents, then the Collateral Agent (or the relevant Second Lien Creditor), shall, without the need for any further consent of any other Person and notwithstanding anything to the contrary in any other Second Lien Loan Document (x) hold and be deemed to have held such Lien and security interest for the benefit of the First Lien Agent as security for the First Lien Obligations, or (y) release such Lien. The Collateral Agent on behalf of the Second Lien Creditors will agree that, to the extent that the provisions in clause (b) above are not complied with for any reason, without limiting any other rights and remedies available to First Lien Agent or First Lien Creditors, any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this clause (b) will be subject to the Payment Over provisions described below.

***Exercise of Rights and Remedies; Standstill***

The Intercreditor Agreement will provide that the First Lien Agent and the other First Lien Creditors will, at all times prior to the Discharge of First Lien Priority Obligations, have the exclusive right to enforce rights and exercise remedies (including any right of setoff) with respect to the Collateral (including making determinations regarding the release, disposition or restrictions with respect to the Collateral), or to commence or seek to commence any action or proceeding with respect to such rights or remedies (including any foreclosure action or proceeding or any insolvency or liquidation proceeding), all in such order and in such manner as they may determine in the exercise of their sole discretion, in each case, without any consultation with or the consent of the Collateral Agent or any other Second Lien Creditor, and no Second Lien Creditor will have any such right; *provided, however*, that after a period of 180 days following notice from the Collateral Agent to the First Lien Agent that a Second Lien Actionable Default has occurred, so long as the First Lien Agent is not diligently pursuing in good faith an enforcement action with respect to all or a material portion of the Collateral or diligently attempting to vacate any stay or prohibition against such exercise, the Second Lien Creditors may enforce or exercise any rights or remedies with respect to any Collateral (the Standstill Period ).

The Intercreditor Agreement will also provide that no Second Lien Creditor will (x) contest, protest, or object to any exercise of remedies by the First Lien Agent or any First Lien Creditor nor have any right to direct the First Lien Agent to exercise remedies or take any other action under the First Lien Documents; or (y) object to (and waive any and all claims with respect to) the forbearance by the First Lien Agent or First Lien Creditors from exercising any remedies. Notwithstanding the foregoing, the Collateral Agent's right to act as provided for in the foregoing shall terminate if any insolvency proceeding has been commenced.

The Intercreditor Agreement will further provide that notwithstanding the foregoing, a Second Lien Creditor may,

(a)

if an insolvency proceeding has been commenced by or against the Issuer or any Guarantor, file a claim or statement of interest with respect to the Second Lien Obligations;

(b)

take any action (not adverse to the priority status of the Liens on the Collateral securing the First Lien Obligations, or the rights of the First Lien Agent or any First Lien Creditors to exercise any remedies) in order to create, preserve, protect or perfect its Lien in and to the Collateral;

(c)

file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding, or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of Second Lien

Creditors, including any claims secured by the Collateral, if any, in each case in accordance with the terms of the Intercreditor Agreement;

(d)

vote on any plan of reorganization as more particularly described below;

(e)

exercise rights and remedies as unsecured creditors as more particularly described below;

(f)

join (but not exercise any control with respect to) any judicial foreclosure proceeding or other judicial lien enforcement proceeding with respect to the Collateral initiated by the First Lien Agent to the extent that any such action could not reasonably be expected, in any material respect, to restrain, hinder, limit, delay for any material period or otherwise interfere with the exercise of remedies by the First Lien Agent (it being understood that neither the Collateral Agent nor any Second Lien Creditor will be entitled to receive any proceeds thereof unless otherwise expressly permitted in the Intercreditor Agreement); and

(g)

exercise any remedies after the termination of the Standstill Period if and to the extent permitted above.

### ***Insolvency and Liquidation Proceedings***

The Intercreditor Agreement will provide that:

(a)

If the Issuer or any Guarantor is subject to any insolvency proceeding and the First Lien Agent consents to the use of cash collateral (as such term is defined in Section 363(a) of the United States Bankruptcy Code, "Cash Collateral"), on which the First Lien Agent has a Lien or permits the Issuer or any Guarantor to obtain financing provided by any one or more First Lien Creditors under Section 364 of the United States Bankruptcy Code (such financing, a "DIP Financing"), then the Collateral Agent agrees that it will, on behalf of the Second Lien Creditors, consent to such Cash Collateral use (and not control, protest or object to such Cash Collateral use) and raise no objection to (or protest or contest) such DIP Financing and, to the extent the Liens securing the First Lien Obligations are discharged, subordinated to, or *pari passu* with such DIP Financing, Collateral Agent will subordinate its Liens in the Collateral to the Liens securing such DIP Financing; *provided that* (i) the principal amount of any such DIP Financing *plus* the outstanding principal amount of other First Lien Obligations does not exceed the First Lien Cap and (ii) any such Cash Collateral use or DIP Financing does not compel the Issuer or any Guarantor to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in the Cash Collateral order or DIP Financing documentation. If First Lien Creditors offer to provide DIP Financing that meets the requirements set forth in clauses (i) through (iv) above, the Collateral Agent will not have the right to, directly or indirectly, provide, offer to provide, or support any DIP Financing secured by a Lien senior to or *pari passu* with the Liens securing the First Lien Priority Obligations. If, in connection with any Cash Collateral use or DIP Financing, any Liens on the Collateral held by First Lien Creditors are subject to a surcharge or are subordinated to an administrative priority claim, a professional fee carve out, or fees owed to the United States Trustee, and so long as the amount of such surcharge, claim, carve out, or fees is reasonable under the circumstances, then the Liens on the Collateral of Second Lien Creditors will also be subordinated to such interest or claim and will remain subordinated to the Liens on the Collateral of First Lien Creditors consistent with the Intercreditor Agreement.

(b)

The Collateral Agent will consent, and will not object or oppose a motion to dispose of any Collateral free and clear of the Liens or other claims in favor of the Collateral Agent under Section 363 of the United States Bankruptcy Code if the requisite First Lien Creditors under the First Lien Documents have consented to such disposition of such assets, and such motion does not impair, subject to the priorities set forth in the Intercreditor Agreement, the rights of Second Lien Creditors under Section 363(k) of the United States Bankruptcy Code (so long as the right of the Second Lien Creditors to offset their claim against the purchase price is only after the First Lien Priority Obligations have been paid in full in cash).

(c)

Until the Discharge of First Lien Priority Obligations, the Collateral Agent will agree not to (a) seek (or support any other person seeking) relief from the automatic stay or any other stay in any insolvency proceeding in respect of the Collateral, without the prior written consent of the First Lien Agent, oppose any request by the First Lien Agent or any First Lien Creditor to seek relief from the automatic stay or any other stay in any insolvency proceeding in respect of the Collateral.

(d)

In any insolvency proceeding involving the Issuer or any Guarantor, no Second Lien Creditor will contest, protest or object (or support any other person contesting):

(i)

any request by the First Lien Agent or other First Lien Creditors for adequate protection; or

(ii)

any objection by the First Lien Agent or First Lien Creditors to any motion, relief, action, or proceeding based on the First Lien Agent or First Lien Creditors claiming a lack of adequate protection.

(e)

In any insolvency proceeding involving the Issuer or any Guarantor:

(i)

if any one or more First Lien Creditors are granted adequate protection in the form of a replacement Lien (on existing or future assets of the Issuer or any Guarantor) in connection with any DIP Financing or use of Cash Collateral, then the Collateral Agent will also be entitled to seek, without objection from First Lien Creditors, adequate protection in the form of a replacement Lien (on such existing or future assets of the Issuer or any Guarantor), which replacement Lien, if obtained, will be subordinate to the Liens securing the First Lien Obligations (including those under a DIP Financing) on the same basis as the other Liens securing the Second Lien Obligations are subordinate to the First Lien Obligations under the Intercreditor Agreement;

(ii)

if any one or more Second Lien Creditors are granted adequate protection in the form of a replacement Lien (on existing or future assets of the Issuer or any Guarantor), then the First Lien Agent will also be entitled to seek, without objection from Second Lien Creditors, a senior adequate protection Lien on existing or future assets of the Issuer or any Guarantor as security for the First Lien Obligations and that any adequate protection Lien on such existing or future assets securing the Second Lien Obligations will be subordinated to the Lien on such assets securing the First Lien Obligations on the same basis as the other Liens securing the Second Lien Obligations are subordinated to the First Lien Obligations under the Intercreditor Agreement;

(iii)

if any one or more First Lien Creditors are granted adequate protection in the form of an expense of administration claim in connection with any DIP Financing or use of Cash Collateral, then the Collateral Agent will also be entitled to seek, without objection from First Lien Creditors, adequate protection in the form of an expense of administration claim, which administration claim, if obtained, will be subordinate to the administration claim of the First Lien Creditors; and

(iv)

if any one or more Second Lien Creditors are granted adequate protection in the form of an expense of administration claim in connection with any DIP Financing or use of Cash Collateral, then First Lien Agent will also be entitled to seek, without objection from Second Lien Creditors, adequate protection in the form of an expense of administration claim, which administration claim, if obtained, will be senior to the administration claim of the Second Lien Creditors.

(f)

Neither the Collateral Agent nor any other Second Lien Creditor will object to, oppose, or challenge any claim by the First Lien Agent or any First Lien Creditor for allowance in any insolvency proceeding of First Lien Obligations consisting of post-petition interest, fees, or expenses.

(g)

Neither the First Lien Agent nor any other First Lien Creditor will object to, oppose, or challenge any claim by the Collateral Agent or any Second Lien Creditor for allowance in any insolvency proceeding of Second Lien Obligations consisting of post-petition interest, fees, or expenses.

***Payment Waterfall***

The Intercreditor Agreement will provide that any Collateral or proceeds thereof received by any of the First Lien Creditors or the Second Lien Creditors in connection with any disposition of, or collection on, such Collateral upon the enforcement or exercise of any right or remedy (including any right of setoff) will be applied as follows:

*first*, to the payment of costs and expenses of the First Lien Agent in accordance with the First Lien Documents or the Collateral Agent in accordance with the Second Lien Documents, as the case may be, in connection with such enforcement or exercise (to the extent not prohibited under the terms of the Intercreditor Agreement);

*second*, to the payment in full in cash or cash collateralization of the First Lien Priority Obligations in accordance with the First Lien Documents, and in the case of payment of any revolving loans, together with the concurrent permanent reduction of any revolving loan commitment thereunder in an amount equal to the amount of such payment;

*third*, upon and following the Discharge of First Lien Priority Obligations, to the payment in full in cash of the Second Lien Priority Obligations in accordance with the Second Lien Documents;

*fourth*, to the payment in full in cash of the Excess First Lien Obligations in accordance with the First Lien Documents;

*fifth*, to the payment in full in cash of the Excess Second Lien Obligations in accordance with the Second Lien Documents; and

*sixth*, any surplus Collateral or proceeds then remaining will be returned to the Issuer, the applicable Guarantor or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

### ***Payment Over***

The Intercreditor Agreement will provide that so long as the Discharge of First Lien Priority Obligations has not occurred, any Collateral or any proceeds thereof received by the Collateral Agent or any other Second Lien Creditor in violation of the Intercreditor Agreement with respect to the Collateral, or otherwise, will be segregated and held in trust and either retained or forthwith transferred or paid over to the First Lien Agent for the benefit of the First Lien Creditors in the same form as received, together with any necessary endorsements.

### ***Certain Voting Matters***

The Intercreditor Agreement will provide that the Second Lien Creditors may not vote on any plan of reorganization (including, without limitation, the right to vote to accept or reject any plan of partial or complete liquidation, reorganization, arrangement, composition or extension) to the extent inconsistent with the terms of the Intercreditor Agreement.

### ***Postponement of Subrogation***

The Intercreditor Agreement will provide that no payment or distribution to any First Lien Creditor pursuant to the provisions of the Intercreditor Agreement will entitle any Second Lien Creditor to exercise any rights of subrogation in respect thereof until the Discharge of First Lien Priority Obligations will have occurred.

### ***Unsecured Creditor Remedies***

The Intercreditor Agreement will provide that, subject to the terms and provisions thereof, the Collateral Agent and the other Second Lien Creditors may, in accordance with the Second Lien Documents and applicable law, exercise any rights and exercise remedies against the Issuer and the Guarantors that could be exercised as an unsecured creditor. Notwithstanding the above, in the event that any Second Lien Creditor becomes a judgment Lien creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment Lien will be subject to the terms of the Intercreditor Agreement for all purposes (including in relation to the First Priority Liens and the First Lien Obligations) to the same extent as all other Liens securing the Second Lien Obligations are subject to the Intercreditor Agreement.

### ***Purchase Option***

The Intercreditor Agreement will provide that within 60 days of the occurrence (and during the continuation) of (i) the acceleration of any First Lien Priority Obligations, (ii) the First Lien Agent's exercise of remedies with respect to all or a material portion of the Collateral or (iii) the commencement of an insolvency proceeding with respect to the Issuer or any Guarantor, then, in any such case, any one or more of Second Lien Creditors (acting in their individual capacity or through one or more affiliates) will have the right, but not the obligation, upon five Business Days advance written notice from such Second Lien Creditors (a *Purchase Notice*) to the First Lien Agent, for the benefit of First Lien Creditors, to acquire from First Lien Creditors all (but not less than all) of the right, title, and interest of First Lien Creditors in and to the First Lien Priority Obligations and the First Lien Loan Documents. The Purchase Notice, if given, will be irrevocable. On the date specified in the Purchase Notice (which will not be more than five Business Days after the receipt by the First Lien Agent of the Purchase Notice), First Lien Creditors will sell to the purchasing Second Lien Creditors and purchasing Second Lien Creditors will purchase from First Lien Creditors, the First Lien Priority Obligations.

On the date of such purchase and sale, purchasing Second Lien Creditors will (i) pay to First Lien Agent, for the benefit of First Lien Creditors, as the purchase price therefor the full amount of all the First Lien Obligations (other than the Excess First Lien Obligations and other than First Lien Obligations cash collateralized in accordance with clause (ii) below) then outstanding and unpaid, (ii) furnish cash collateral to First Lien Agent in such amounts as First Lien Agent determines is reasonably necessary to secure First Lien Agent and First Lien Creditors in connection with (A) any issued and outstanding letters of credit (but not in any event in an amount greater than 103% of the aggregate undrawn amount of such letters of credit) and (B) bank product obligations (but not in any event in an amount greater than any relevant bank product reserve), and (iii) agree to reimburse the First Lien Agent and First Lien Creditors for all expenses to the extent earned or due and payable in accordance with the First Lien Documents. Following such purchase, if the Second Lien Creditors receive any early termination or other similar fee payable pursuant to the documents governing First Lien Obligations, and all Second Lien Obligations have been indefeasibly satisfied in full (including all amounts used to purchase the First Lien Obligations) the Second Lien Creditors will turn over such amounts to holders of First Lien Obligations.



***Release of Second Priority Liens***

The Intercreditor Agreement will provide that if, in connection with (i) any disposition of any Collateral permitted under the terms of the First Lien Documents (other than during the continuance of a Second Lien Actionable Default), (ii) the enforcement or exercise of any rights or remedies with respect to the Collateral, including any disposition of Collateral or (iii) any private or public disposition of all or any portion of the Collateral by the Issuer or one or more Guarantors with the consent of the First Lien Agent after the occurrence and during the continuance of an event of default under the First Lien Documents, which disposition is conducted by the Issuer or such Guarantors with the consent of the First Lien Agent in connection with good faith efforts by the First Lien Agent to collect the First Lien Obligations through the disposition of Collateral (any such disposition, a Default Disposition ), the First Lien Agent, for itself and on behalf of the other First Lien Creditors, (x) releases any of the First Priority Liens, or (y) releases any Guarantor from its obligations under its guarantee of the First Lien Obligations (in each case, a Release ), other than any such Release granted following the Discharge of First Lien Priority Obligations, then the Second Priority Liens on such Collateral, and the obligations of such Guarantor under its Guarantee, will be automatically, unconditionally and simultaneously Released (and if the release includes Equity Interests in the Issuer or any Guarantor, the Collateral Agent further agrees to Release those Persons whose Equity Interests are disposed of from all of their obligations under the Second Lien Documents), and the Collateral Agent and the other Second Lien Creditors will promptly execute and deliver such release documents as the First Lien Agent may reasonably request to effectively confirm such Release and as may be otherwise reasonably required to consummate such Release and any related transactions; provided that, (x) in the case of a disposition of Collateral in accordance with clauses (ii) and (iii) above, the Second Priority Liens may not be so Released if the proceeds of such disposition are not applied to repay the First Lien Obligations and permanently reduce any commitments thereunder by a corresponding amount and (y) in the case of a disposition of Collateral in accordance with clause (iii) above, with respect to Collateral that is subject to Article 9 of the Uniform Commercial Code, the Issuer or the relevant Guarantors consummating such Default Disposition have (A) provided the Collateral Agent with the prior written notice that would have been required if the Default Disposition were a disposition of collateral by a secured creditor under Article 9 of the Uniform Commercial Code, and (B) conducted such Default Disposition in a commercially reasonable manner as if such Default Disposition were a disposition of collateral by a secured creditor in accordance with Article 9 of the Uniform Commercial Code.

Whether before or after the Discharge of First Lien Priority Obligations, the Issuer will be entitled to releases of assets included in the Collateral from the Liens securing the notes under any one or more of the following circumstances:

(1)

to enable the Issuer to consummate asset sales and dispositions permitted or not prohibited under the covenant described below under Repurchase at the Option of Holders Asset Sales ; provided, that such Liens will not be released if such sale or disposition is to a Restricted Subsidiary or is subject to the covenant described below under the caption Certain Covenants Merger, Consolidation or Sale of Assets ;

(2)

with respect to the assets of a Guarantor that constitute Collateral, upon the release of such Guarantor from its Guarantee; and

(3)

as described under Amendment, Supplement and Waiver below.

The Liens on all Collateral that secures the notes and the Note Guarantees also will be released:

(1)

if the Issuer exercises its legal defeasance option or covenant defeasance option as described below under Legal Defeasance and Covenant Defeasance ; or

(2)

upon satisfaction and discharge of the Indenture as described below under Satisfaction and Discharge or payment in full of the principal of, premium, if any, and accrued and unpaid interest on the notes and all other Obligations that are then due and payable.

Subject to the terms of the Security Documents and subject to rights of the holders of the First Lien Obligations, the Issuer and each Guarantor will have the right to remain in possession and retain exclusive control of the Collateral securing the notes, to freely operate such Collateral and to collect, invest and dispose of any income therefrom.

### ***Amendments to Security Documents***

The Intercreditor Agreement will provide, subject to limitations (if any) set forth therein, that, in the event the First Lien Agent or the other First Lien Creditors enter into any amendment, waiver or consent in respect of any of the First Lien Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any such document or changing in any manner the rights of the First Lien Agent, the other First Lien Creditors, the Issuer or any other grantor thereunder, then such amendment, waiver or consent will apply automatically to any comparable provision of the Security Documents without the consent of the Second Lien Creditors and without any action by any of the foregoing, *provided*, that no such amendment will (A) remove or release any Collateral subject to a Second Priority Lien, except to the extent that (x) the release is permitted or required under the provisions set forth under the heading *Insolvency and Liquidation Proceedings* and (y) there is a corresponding release of Collateral from the First Priority Lien, (B) materially and adversely affect the rights of the Second Lien Creditors without the consent of the Collateral Agent, unless it also affects the First Lien Creditors in a like or similar manner, or (C) impose duties on the Collateral Agent, without its consent. Notice of such amendment, waiver or consent will be given to the Collateral Agent no later than 30 days after its effectiveness, provided that the failure to give such notice will not affect the effectiveness and validity thereof.

### **Certain Bankruptcy and Other Limitations**

The ability of the Collateral Agent and the holders of the notes to realize upon the Collateral may be subject to certain bankruptcy law limitations in the event of a bankruptcy of the Issuer or a Guarantor. See *Risk Factors Risks Related to the Notes Rights of holders of notes in the collateral may be adversely affected by bankruptcy proceedings*. The ability of the Collateral Agent and the holders of the notes to foreclose on the Collateral may be subject to lack of perfection, the consent of third parties, prior Liens and practical problems associated with the realization of the Collateral Agent's Lien on the Collateral.

Additionally, the Collateral Agent may need to evaluate the impact of the potential liabilities before determining to foreclose on Collateral consisting of real property (if any) because a secured creditor that holds a Lien on real property may be held liable under environmental laws for the costs of remediating or preventing release or threatened releases of hazardous substances at such real property. Consequently, the Collateral Agent may decline to foreclose on such Collateral or exercise remedies available if it does not receive indemnification to its satisfaction from the holders of the notes.

### **Compliance with Trust Indenture Act**

The Indenture provides that the Issuer will comply with the provisions of TIA §314 to the extent applicable. To the extent applicable, the Issuer will cause TIA §313(b), relating to reports, and TIA §314(d), relating to the release of property or securities subject to the Lien of the Security Documents, to be complied with. Any certificate or opinion required by TIA §314(d) may be made by an officer or legal counsel, as applicable, of the Issuer except in cases where TIA §314(d) requires that such certificate or opinion be made by an independent Person, which Person will be an independent engineer, appraiser or other expert selected by or reasonably satisfactory to the Trustee. Notwithstanding anything to the contrary in this paragraph, the Issuer will not be required to comply with all or any portion of TIA §314(d) if it reasonably determines that under the terms of TIA §314(d) or any interpretation or guidance as to the meaning thereof of the SEC and its staff, including *no action* letters or exemptive orders, all or any portion of TIA §314(d) is inapplicable to any release or series of releases of Collateral.

Without limiting the generality of the foregoing, certain *no action* letters issued by the SEC have permitted an indenture qualified under the Trust Indenture Act to contain provisions permitting the release of collateral from Liens under such indenture in the ordinary course of the issuer's business without requiring the issuer to provide certificates and other documents under Section 314(d) of the Trust Indenture Act. The Issuer and the Guarantors may, subject to the provisions of the Indenture, among other things, without any release or consent by the holders of the notes,

conduct ordinary course activities with respect to the Collateral, including, without limitation:

selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Lien of the Security Documents that has become worn out, defective, obsolete or not used or useful in the business;

abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Lien of the Indenture or any of the Security Documents;

surrendering or modifying any franchise, license or permit subject to the Lien of the Security Documents that it may own or under which it may be operating;

altering, repairing, replacing, changing the location or position of and adding to its structures, machinery, systems, equipment, fixtures and appurtenances;

granting a license of any intellectual property;

selling, transferring or otherwise disposing of inventory in the ordinary course of business; and

abandoning any intellectual property that is no longer used or useful in the Issuer's business.

**Optional Redemption**

At any time prior to January 1, 2014, the Issuer may on any one or more occasions redeem up to 35% of the aggregate principal amount of notes issued under the Indenture, upon not less than 30 nor more than 60 days' notice, at a redemption price of 112.500% of the principal amount of the notes redeemed, plus accrued and unpaid interest, if any, to the redemption date, using the net cash proceeds of one or more Equity Offerings by the Issuer; *provided that*:

(1)

at least 65% of the aggregate principal amount of notes originally issued under the Indenture (excluding notes held by the Issuer and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and

(2)

the redemption occurs within 60 days of the date of the closing of such Equity Offering.

During each twelve-month period commencing on the Issue Date and ending on or prior to January 1, 2014, the Issuer may redeem up to 10% of the aggregate principal amount of the notes at a redemption price equal to 106.250% of the principal amount thereof, plus accrued and unpaid interest to the redemption date.

At any time prior to January 1, 2014, the Issuer may also redeem all or a part of the notes, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to each holder's registered address (or transmitted otherwise in accordance with the applicable procedures of DTC), with a copy to the Trustee, at a redemption price equal to 100% of the principal amount of notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, but not including, the date of redemption, subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date.

Except pursuant to the preceding paragraphs, the notes will not be redeemable at the Issuer's option prior to January 1, 2014.

On or after January 1, 2014, the Issuer may redeem the notes, in whole or in part, upon not less than 30 nor more than 60 days' notice by first-class mail, postage prepaid, with a copy to the Trustee, to each holder of notes to the address of such holder appearing in the security register (or otherwise in accordance with the procedures of DTC), at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest on the notes redeemed, to, but not including, the applicable redemption date, if redeemed during the period set forth below, subject to the rights of holders of notes on the relevant record date to receive interest on the relevant interest payment date:

<b>For the period below</b>	<b>Percentage</b>
On or after January 1, 2014 to June 30, 2014	106.250%

On or after July 1, 2014 to December 31, 2014	104.688%
On or after January 1, 2015 to June 30, 2015	103.125%
On or after July 1, 2015 to December 31, 2015	101.563%
On or after January 1, 2016	100.000%

Notice of redemption may, at the Issuer's option and discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering or Change of Control, as the case may be. If any such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date so delayed.

Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

The Trustee shall select the notes to be purchased in the manner described under the caption Selection and Notice.

**Mandatory Redemption**

Except to the extent that the Issuer may be required to offer to purchase the notes as set forth below under Repurchase at the Option of Holders, the Issuer is not required to make mandatory redemption or sinking fund payments with respect to the notes.

## Repurchase at the Option of Holders

### *Change of Control*

If a Change of Control occurs, each holder of notes will have the right to require the Issuer to offer to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess thereof) of that holder's notes pursuant to the offer described below (a *Change of Control Offer*) at a price in cash on the terms set forth in the Indenture. In the Change of Control Offer, the Issuer will offer a payment (a *Change of Control Payment*) in cash equal to 101% of the aggregate principal amount of notes repurchased plus accrued and unpaid interest and Additional Interest, if any, on the notes repurchased to, but not including, the date of purchase, subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date. Within ten days following any Change of Control, the Issuer will mail such Change of Control Offer by first-class mail, with a copy to the Trustee, to each holder of notes to the address of such holder appearing in the security register (or otherwise in accordance with the procedures of DTC), with the following information:

(1)

a Change of Control Offer is being made pursuant to the covenant entitled *Change of Control*, and that all notes properly tendered pursuant to such Change of Control Offer will be accepted for payment;

(2)

the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the *Change of Control Payment Date*);

(3)

any note not properly tendered will remain outstanding and continue to accrue interest;

(4)

unless the Issuer defaults in the payment of the Change of Control Payment, all notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on, but not including, the Change of Control Payment Date;

(5)

holders electing to have any notes purchased pursuant to a Change of Control Offer will be required to surrender the notes, with the form entitled *Option of Holder to Elect Purchase* on the reverse of the notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third business day preceding the Change of Control Payment Date;

(6)

holders will be entitled to withdraw their tendered notes and their election to require the Issuer to purchase such notes; *provided* that the paying agent receives, not later than the close of business on the last day of the offer period, an electronic mail, facsimile transmission or letter setting forth the name of the holder of the notes, the principal amount of notes tendered for purchase, and a statement that such holder is withdrawing his tendered notes and his election to have such notes purchased;

(7)

if such notice is mailed prior to the occurrence of a Change of Control, stating the Change of Control Offer is conditional on the occurrence of such Change of Control; and

(8)

that holders whose notes are being purchased only in part will be issued new notes equal in principal amount to the unpurchased portion of the notes surrendered, which unpurchased portion must be equal to \$2,000 or an integral multiple of \$1,000 in excess thereof.

While the notes are in global form and the Issuer makes an offer to purchase all or any portion of the notes pursuant to the Change of Control Offer, a holder may exercise its option to elect for the purchase of the notes through the facilities of DTC, subject to its rules and regulations.

The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the notes as a result of a Change of Control pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the Indenture by virtue of such compliance.

On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(1)

accept for payment all notes or portions of notes properly tendered pursuant to the Change of Control Offer;

(2)

deposit with the paying agent an amount equal to the Change of Control Payment in respect of all notes or portions of notes properly tendered; and



(3)

deliver or cause to be delivered to the Trustee for cancellation the notes properly accepted, together with an Officers Certificate stating the aggregate principal amount of notes or portions of notes being purchased by the Issuer.

The paying agent will promptly transmit to each holder of notes properly tendered and so accepted the Change of Control Payment for such notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each holder a new note equal in principal amount to any unpurchased portion of the notes surrendered by each such holder, if any; *provided* that each such new note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. Any note so accepted for payment will cease to accrue interest on and after the Change of Control Payment Date. The Issuer will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require the Issuer to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the Indenture are applicable. Except as described above with respect to a Change of Control, the Indenture does not contain provisions that permit the holders of the notes to require that the Issuer repurchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The Issuer will not be required to make a Change of Control Offer following a Change of Control if (1) a third-party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by the Issuer and purchases all notes validly tendered and not withdrawn under such Change of Control Offer or (2) notice of redemption has been given pursuant to the Indenture as described under the caption *Optional Redemption*, unless and until there is a default in payment of the applicable redemption price. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

The Credit Agreement will (subject to limited exceptions), and future Credit Facilities or other agreements relating to senior Indebtedness to which the Issuer becomes a party may, contain prohibitions of certain events, including events that would constitute a Change of Control. The exercise by the holders of notes of their rights to require the Issuer to repurchase the notes upon a Change of Control could cause a default thereunder, even if the Change of Control itself does not, due to the financial effect of such repurchases on the Issuer. In the event a Change of Control occurs at a time when the Issuer is prohibited from purchasing the notes, the Issuer could seek the consent of its lenders to permit the purchase of the notes or could attempt to refinance the borrowings that contain such prohibition. If the Issuer does not obtain such consent or repay such borrowing, the Issuer will remain prohibited from purchasing the notes and such default could result in amounts outstanding under the Credit Agreement being declared due and payable. In that case, the Issuer's failure to purchase tendered notes would constitute an Event of Default under the Indenture which could, in turn, constitute a default under the other Indebtedness. Finally, the Issuer's ability to pay cash to the holders of notes upon a repurchase may be limited by the Issuer's then existing financial resources. See *Risk Factors* *Risks Related to the Notes* *Our ability to repurchase the notes with cash upon a change of control or upon an offer to repurchase the notes in the case of an asset sale, as required by the indenture, may be limited.*

The Change of Control purchase feature of the notes may in certain circumstances make more difficult or discourage a sale or takeover of us and, thus, the removal of incumbent management. The Change of Control purchase feature is a result of negotiations between the initial purchaser of the notes and us. After the Issue Date, we have no present intention to engage in a transaction involving a Change of Control, although it is possible that we could decide to do so in the future. Subject to the limitations discussed below, we could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Indenture, but that could increase the amount of Indebtedness outstanding at such time or otherwise affect our capital structure or credit ratings. Restrictions on our ability to incur additional Indebtedness are contained in the covenants

described under the captions Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock and Certain Covenants Liens. Such restrictions in the Indenture can be waived only with the consent of the holders of a majority in principal amount of the notes then outstanding. Except for the limitations contained in such covenants, however, the Indenture will not contain any covenants or provisions that may afford holders of the notes protection in a highly levered transaction.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Issuer and its Subsidiaries taken as a whole. Although there is a limited body of case law interpreting the phrase substantially all, there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a holder of notes to require the Issuer to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Issuer and its Subsidiaries taken as a whole to another Person or group may be uncertain. In a recent decision, the Chancery Court of the State of Delaware raised the possibility that a change of control occurring as a result of a failure to have continuing directors comprising a majority of a board of directors may be unenforceable on public policy grounds.

The existence of a holder's right to require the Issuer to repurchase such holder's notes upon the occurrence of a Change of Control may deter a third party from seeking to acquire the Issuer in a transaction that would constitute a Change of Control.

The provisions under the Indenture relative to our obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or modified with the written consent of the holders of a majority in principal amount of the notes.

### ***Asset Sales***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1)

the Issuer (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2)

at least 75% of the consideration received in the Asset Sale by the Issuer or such Restricted Subsidiary is in the form of cash or Cash Equivalents; *provided, however*, to the extent that any disposition in such Asset Sale was of Collateral, the non-cash consideration received is pledged as Collateral in accordance with the Security Documents substantially simultaneously with such sale, in accordance with the requirements set forth in the Indenture. For purposes of this provision, each of the following will be deemed to be cash:

(a)

any liabilities, as shown on the Issuer's most recent consolidated balance sheet, of the Issuer or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Issuer or such Restricted Subsidiary from further liability;

(b)

any securities, notes or other obligations received by the Issuer or any such Restricted Subsidiary from such transferee that are contemporaneously, subject to ordinary settlement periods, converted by the Issuer or such Restricted Subsidiary into cash, to the extent of the cash received in that conversion; and

(c)

any stock or assets of the kind referred to in clauses (2) or (4) of the next paragraph of this covenant.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds:

(1)

to repay Indebtedness and other Obligations under a Credit Facility and to the extent such Credit Facility is a revolving facility, to correspondingly reduce commitments with respect thereto;

(2)

to acquire all or substantially all of the assets of, or any Capital Stock of, another Oil and Gas Business, if, after giving effect to any such acquisition of Capital Stock, the Oil and Gas Business is or becomes, or all or substantially all of the assets thereof are acquired by, a Restricted Subsidiary of the Issuer;

(3)

to make a capital expenditure; or

(4)

to acquire other assets that are not classified as current assets under GAAP and that are used or useful in an Oil and Gas Business; *provided* that the assets (including Voting Stock) acquired with the Net Proceeds from any disposition of Collateral are pledged as Collateral in accordance with the Security Documents concurrently with such acquisition in accordance with the requirements of the Indenture.

Pending the final application of any Net Proceeds, the Issuer may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the Indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the second paragraph of this covenant will constitute Excess Proceeds. When the aggregate amount of Excess Proceeds exceeds \$5.0 million, the Issuer will, within 30 days thereof, make one or more offers to the holders of the notes (and, at the option of the Issuer, the holders of Other Pari Passu Obligations) to purchase notes (and Other Pari Passu Obligations) pursuant to and subject to the conditions contained in the Indenture (each, an Asset Sale Offer), that are \$2,000 or an integral multiple of \$1,000 in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest to, but not including, the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. The Issuer will commence an Asset Sale Offer with respect to Excess Proceeds within 30 days after the date that Excess Proceeds exceeds \$5.0 million by mailing (or transmitting otherwise in accordance with the procedures of DTC), the notice required pursuant to the terms of the Indenture, with a copy to the Trustee. To the extent that the aggregate amount of notes and such Other Pari Passu Obligations tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Issuer may use

any remaining Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of notes or the Other Pari Passu Obligations surrendered by such holders thereof exceeds the amount of Excess Proceeds, the notes and such Other Pari Passu Obligations will be purchased on a *pro rata* basis based on the accreted value or principal amount of the notes or such Other Pari Passu Obligations tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of the Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the Indenture by virtue of such compliance.

The agreements governing the Issuer's other Indebtedness contain, and future agreements may contain, prohibitions of certain events, including events that would constitute a Change of Control or an Asset Sale and including repurchases of or other prepayments in respect of the notes. The exercise by the holders of notes of their right to require the Issuer to repurchase the notes upon a Change of Control or an Asset Sale could cause a default under these other agreements, even if the Change of Control or Asset Sale itself does not, due to the financial effect of such repurchases on the Issuer. In the event a Change of Control or Asset Sale occurs at a time when the Issuer is prohibited from purchasing notes, the Issuer could seek the consent of its senior lenders to the purchase of notes or could attempt to refinance the borrowings that contain such prohibition. If the Issuer does not obtain a consent or repay those borrowings, the Issuer will remain prohibited from purchasing notes. In that case, the Issuer's failure to purchase tendered notes would constitute an Event of Default under the Indenture, which could, in turn, constitute a default under the other indebtedness. Finally, the Issuer's ability to pay cash to the holders of notes upon a repurchase may be limited by the Issuer's then existing financial resources. See Risk Factors Risks Related to the Notes *Our ability to repurchase the notes with cash upon a change of control or upon an offer to repurchase the notes in the case of an asset sale, as required by the indenture, may be limited.*

## **Selection and Notice**

If less than all of the notes are to be redeemed at any time, the Trustee will select notes for redemption on a *pro rata* basis or by lot of such similar method (and in the case of global notes, in accordance with the procedures of DTC), unless otherwise required by law or applicable stock exchange requirements; *provided* that no notes of \$2,000 or less shall be purchased or redeemed in part.

Notices of redemption will be mailed by first-class mail (or transmitted otherwise in accordance with the procedures of DTC) at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the Indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unpurchased or unredeemed portion of the original note purchased or redeemed in part will be issued in the name of the holder of notes upon cancellation of the original note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of notes called for redemption.

## **Certain Covenants**

### ***Restricted Payments***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1)

declare or pay any dividend or make any other payment or distribution on account of the Issuer's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Issuer or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Issuer's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Issuer and other than dividends or distributions payable to the Issuer or a Restricted Subsidiary of the Issuer);

(2)

purchase, redeem, defease or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Issuer) any Equity Interests of the Issuer or any direct or indirect parent of the Issuer;

(3)

make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Issuer and any of its Restricted Subsidiaries), except (a) a payment of interest or principal at the Stated Maturity thereof or (b) any Plan of Reorganization Indebtedness at the Stated Maturity thereof or at any other time; or

(4)

make any Restricted Investment;

(all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as Restricted Payments ),

unless, at the time of and after giving effect to such Restricted Payment:

(1)

no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(2)

the Issuer would, at the time of such Restricted Payment and after giving *pro forma* effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described below under the caption Incurrence of Indebtedness and Issuance of Preferred Stock; and

(3)

such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries since the Issue Date (excluding Restricted Payments permitted by clauses (2), (3), (4), (6) and (8) of the next succeeding paragraph), is less than the sum, without duplication, of:

(a)

50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the Issue Date to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(b)

100% of the aggregate net cash proceeds received by the Issuer since the Issue Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Issuer (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Issuer that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Issuer); *provided* that any equity offering consummated on or within 15 days of the Issue Date shall be excluded from the Restricted Payments permitted pursuant to this clause (b); *plus*

(c)

to the extent that any Restricted Investment that was made after the Issue Date is sold for cash or otherwise liquidated or repaid for cash, the lesser of (i) the cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment; *plus*

(d)

to the extent that any Unrestricted Subsidiary of the Issuer designated as such after the Issue Date is redesignated as a Restricted Subsidiary after the Issue Date, the lesser of (i) the Fair Market Value of the Issuer's Investment in such Subsidiary as of the date of such redesignation or (ii) such Fair Market Value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary after the Issue Date; *plus*

(e)

50% of any dividends received by the Issuer or a Restricted Subsidiary of the Issuer that is a Guarantor after the Issue Date from an Unrestricted Subsidiary of the Issuer, to the extent that such dividends were not otherwise included in the Consolidated Net Income of the Issuer for such period.

So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions will not prohibit:

(1)

the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or redemption payment would have complied with the provisions of the Indenture;

(2)

the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Issuer) of, Equity Interests of the Issuer (other than Disqualified Stock) or from



the substantially concurrent contribution of common equity capital to the Issuer; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(b) of the preceding paragraph;

(3)

the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(4)

the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Issuer to the holders of its Equity Interests on a *pro rata* basis;

(5)

the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Issuer or any Restricted Subsidiary of the Issuer held by any current or former officer, director or employee of the Issuer or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$500,000 in any twelve-month period;

(6)

the repurchase of Equity Interests deemed to occur upon the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options;

(7)

the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Issuer or any Restricted Subsidiary of the Issuer issued on or after the Issue Date in accordance with the Fixed Charge Coverage Ratio test described below under the caption Incurrence of Indebtedness and Issuance of Preferred Stock; or

(8)

other Restricted Payments in an aggregate amount not to exceed \$5.0 million since the Issue Date.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the assets or securities proposed to be transferred or issued by the Issuer or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this covenant will be determined by the Board of Directors of the Issuer whose resolution with respect thereto will be delivered to the Trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the Fair Market Value exceeds \$5.0 million. For purposes of determining compliance with this covenant, if a Restricted Payment meets the criteria of more than one of the exceptions described in clauses (1) through (9) above, or is entitled to be made according to the first paragraph of this covenant, the Issuer may, in its sole discretion, classify the Restricted Payment in any manner that complies with this covenant.

***Incurrence of Indebtedness and Issuance of Preferred Stock***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, incur ) any Indebtedness (including Acquired Debt), and the Issuer will not issue any Disqualified Stock or any shares of preferred stock and will not permit any of its Restricted Subsidiaries to issue any Disqualified Stock or any shares of preferred stock; *provided, however*, that the Issuer and the Guarantors may incur Indebtedness (including Acquired Debt), issue Disqualified Stock or issue preferred stock, if the Fixed Charge Coverage Ratio for the Issuer and the Guarantors on a consolidated basis for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or such preferred stock is issued, as the case may be, would have been at least 2.5 to 1.0, determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or the preferred stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, Permitted Debt ):

(1)

the incurrence by the Issuer and any Guarantor of (I) additional Indebtedness under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) not to exceed the greater of (a) \$35.0 million and (b) 15% of Adjusted Consolidated Net Tangible Assets, in each case, *less* the aggregate amount of all Net Proceeds of Asset Sales applied by the Issuer or any of its Restricted Subsidiaries since the Issue Date to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to the covenant described above under the caption

Repurchase at the Option of Holders Asset Sales; and (II) letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) not to exceed \$10.0 million;

(2)

the incurrence by the Issuer and its Restricted Subsidiaries of Existing Indebtedness (other than the Indebtedness described in clauses (1) and (3) of this paragraph);

(3)

the incurrence by the Issuer and the Guarantors of Indebtedness represented by the notes and the related Note Guarantees issued on the Issue Date and the exchange notes and the related Note Guarantees to be issued pursuant to the registration rights agreement;

(4)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used in the business of the Issuer or any of its Restricted Subsidiaries, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (4), not to exceed \$5.0 million at any time outstanding;

(5)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by the Indenture to be incurred under the first paragraph of this covenant or clauses (2), (3), (5) or (15) of this paragraph;

(6)

the incurrence by the Issuer or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Issuer and any of its Restricted Subsidiaries; *provided, however*, that:

(a)

if the Issuer or any Guarantor is the holder of such Indebtedness and the borrower is not the Issuer or a Guarantor, such Indebtedness (i) must be evidenced by a promissory note which note shall be pledged to the Collateral Agent in favor of the holders of notes, subject to the Intercreditor Agreement, (ii) must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the notes, in the case of the Issuer, or the Note Guarantee, in the case of a Guarantor and (iii) shall not exceed \$5.0 million at any one time outstanding; and

(b)

(i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Issuer or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7)

the issuance by any of the Issuer's Restricted Subsidiaries to the Issuer or to any of its Restricted Subsidiaries of shares of preferred stock; *provided, however*, that:

(a)

any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer; and

(b)

any sale or other transfer of any such preferred stock to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer,

will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (7);

(8)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(9)

the guarantee by the Issuer or any of the Guarantors of Indebtedness of the Issuer or a Restricted Subsidiary of the Issuer that was permitted to be incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the notes, then the Guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

(10)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims, self-insurance obligations, bankers' acceptances, performance and surety bonds in the ordinary course of business;

(11)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five business days;

(12)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness in respect of bid, performance, surety and similar bonds issued for the account of the Issuer and any of its Restricted Subsidiaries in the ordinary course of business, including guarantees and obligations of the Issuer and any of its Restricted Subsidiaries with respect to letters of credit supporting such obligations (in each other than an obligation for money borrowed);

(13)

the incurrence by the Issuer or any of its Restricted Subsidiaries of obligations relating to net gas balancing positions arising in the ordinary course of business and consistent with past practice;

(14)

the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness arising from agreements of the Issuer or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or Capital Stock of a Subsidiary, provided that the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Issuer and its Restricted Subsidiaries in connection with such disposition; and

(15)

the incurrence by the Issuer or any of the Guarantors of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (15), not to exceed \$5.0 million.

The Indenture provides that the Issuer will not incur, and will not permit any Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Issuer or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Issuer solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.

For purposes of determining compliance with this Incurrence of Indebtedness and Issuance of Preferred Stock covenant, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (15) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, the Issuer will be permitted to divide and classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant. The accrual of interest payable in cash in accordance with the terms of such Indebtedness in the ordinary course of business, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual or payment is included in Fixed Charges of

the Issuer as accrued. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Issuer or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

(1)  
the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

(2)  
the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(3)  
in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(a)  
the Fair Market Value of such assets at the date of determination; and

(b)  
the amount of the Indebtedness of the other Person.

***Liens***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind on any asset now owned or hereafter acquired, except Permitted Liens unless contemporaneously with the incurrence of such Liens, it has made or will make effective provisions whereby the notes or any Note

Guarantee will be secured by such Lien equally and ratably with (or, if such other Indebtedness is contractually subordinated to the notes, prior to) all other Indebtedness secured by such Lien for so long as such other Indebtedness is secured by such Lien.

***Dividend and Other Payment Restrictions Affecting Subsidiaries***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1)

pay dividends or make any other distributions on its Capital Stock to the Issuer or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Issuer or any of its Restricted Subsidiaries;

(2)

make loans or advances to the Issuer or any of its Restricted Subsidiaries; or

(3)

sell, lease or transfer any of its properties or assets to the Issuer or any of its Restricted Subsidiaries.

However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1)

agreements governing Existing Indebtedness as in effect on the Issue Date and Credit Facilities permitted to be entered into under the Indenture and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date;

(2)

the Indenture, the notes, the Note Guarantees and the Security Documents;

(3)

applicable law, rule, regulation or order;

(4)

any instrument governing Indebtedness or Capital Stock of a Person acquired by the Issuer or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the Indenture to be incurred;

(5)

customary non-assignment provisions in contracts and licenses entered into in the ordinary course of business;

(6)

purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of the first paragraph of this covenant;

(7)

any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(8)

Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being extended, renewed, refunded, refinanced, defeased or discharged (as determined in good faith by the Board of Directors of the Issuer);

(9)

Liens permitted to be incurred under the provisions of the covenant described above under the caption **Liens** that limit the right of the debtor to dispose of the assets subject to such Liens;

(10)

provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Issuer's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(11)

restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(12)

in the case of clause (3) of the first paragraph of this covenant, any encumbrance or restriction:





(a)

that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license or similar contract, or the assignment or transfer of any such lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license (including, without limitation, licenses of intellectual property) or other contract;

(b)

contained in mortgages, pledges or other security agreements permitted under the indenture securing Indebtedness of the Issuer or a Restricted Subsidiary to the extent such encumbrances or restrictions restrict the transfer of the property subject to such mortgages, pledges or other security agreements;

(c)

contained in any agreement creating Hedging Obligations permitted from time to time under the Indenture; or

(d)

pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Issuer or any Restricted Subsidiary; and

(13)

any customary encumbrances or restrictions imposed pursuant to any agreement of the type described in the definition of *Permitted Business Investment* ; *provided* that the Issuer shall, and shall cause each Restricted Subsidiary to, make all commercially reasonable efforts to prevent any asset or property, including but not limited to *Permitted Business Investments*, from being subject to any encumbrances or restrictions.

***Merger, Consolidation or Sale of Assets***

The Issuer will not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Issuer is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1)

either: (a) the Issuer is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2)

the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Issuer under the notes, the Indenture, the registration rights agreement and the Security Documents pursuant to agreements reasonably satisfactory to the Trustee;

(3)

immediately after such transaction, no Default or Event of Default exists;

(4)

the Issuer or the Person formed by or surviving any such consolidation or merger (if other than the Issuer), or to which such sale, assignment, transfer, conveyance or other disposition has been made would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption Incurrence of Indebtedness and Issuance of Preferred Stock; and

(5)

the Trustee has received an Opinion of Counsel and Officers Certificate to the effect that such transaction complies with the foregoing.

In addition, the Issuer will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

This Merger, Consolidation or Sale of Assets covenant will not apply to:

(1)

a merger of the Issuer with an Affiliate solely for the purpose of reincorporating the Issuer in another jurisdiction; or

(2)

any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Issuer and its Restricted Subsidiaries.

***Transactions with Affiliates***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each, an *Affiliate Transaction* ), unless:

(1)

the Affiliate Transaction is on terms that are no less favorable to the Issuer or the relevant Restricted Subsidiary (as determined in good faith by the Board of Directors of the Issuer) than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person; and

(2)

the Issuer delivers to the Trustee:

(a)

with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$1.0 million, a resolution of the Board of Directors of the Issuer set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this covenant and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of the Issuer; and

(b)

with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, an opinion as to the fairness to the Issuer or such Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1)

any employment agreement, employee benefit plan, officer or director indemnification agreement or any similar arrangement entered into by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business and payments pursuant thereto;

(2)

transactions between or among the Issuer and/or its Restricted Subsidiaries;

(3)

transactions with a Person (other than an Unrestricted Subsidiary of the Issuer) that is an Affiliate of the Issuer solely because the Issuer owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(4)

payment of reasonable directors' fees to Persons who are not otherwise Affiliates of the Issuer;

(5)

any issuance of Equity Interests (other than Disqualified Stock) of the Issuer to Affiliates of the Issuer;

(6)

transactions effected pursuant to agreements in effect on the Issue Date and described in the offering circular relating to the initial issuance of the notes and any amendment, modification or replacement of such agreement (so long as such amendment or replacement is not less favorable to the Issuer, any Restricted Subsidiary or the holders, taken as a whole, than the original agreement as in effect on the Issue Date as determined in good faith by the Board of Directors of the Issuer); and

(7)

the repayment at the Stated Maturity thereof or at any other time of the Officer Loans.

***Business Activities***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than an Oil and Gas Business, except to such extent as would not be material to the Issuer and its Restricted Subsidiaries taken as a whole.

***Additional Note Guarantees***

If the Issuer or any of its Restricted Subsidiaries acquires or creates another Domestic Subsidiary after the Issue Date, then the Issuer will (1) cause that newly acquired or created Domestic Subsidiary to execute a supplemental indenture pursuant to which it will become a Guarantor, (2) cause the newly acquired or created Domestic Subsidiary to execute and deliver to the Trustee and the Collateral Agent amendments to the Security Documents, additional Security Documents and Intercreditor Agreement, and take such other action as may be necessary or advisable in the determination of the Collateral Agent to grant to the Collateral Agent, for the benefit of the holders, a perfected Lien in the assets (other than Excluded Assets) of such Domestic Subsidiary to have such assets included as Collateral, including the filing of Uniform Commercial Code financing statements in such jurisdiction or such other actions as may be required by the Security Documents, (3) cause that newly acquired or created

Domestic Subsidiary to take such actions necessary or as the Collateral Agent reasonably determines to be necessary or advisable to grant to the Collateral Agent for the benefit of the holders a perfected Lien in the assets other than Excluded Assets of such new Domestic Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdiction as may be required by the Security Documents or by law or as may be reasonably requested by the Collateral Agent, (4) cause that newly acquired or created Domestic Subsidiary to take such further action and execute and deliver such other documents reasonably requested by the Trustee or the Collateral Agent to effectuate the foregoing, and (5) deliver an Officers Certificate and an Opinion of Counsel satisfactory to the Trustee and Collateral Agent, in each case, within 30 days of the date on which the Domestic Subsidiary was acquired or created as contemplated by the Indenture, Security Documents and Intercreditor Agreement.

### ***Designation of Restricted and Unrestricted Subsidiaries***

The Board of Directors of the Issuer may designate any Restricted Subsidiary (including any newly acquired or newly formed Subsidiary or Person that becomes a Subsidiary through merger or consolidation or Investment therein) to be an Unrestricted Subsidiary if that designation would not cause a Default and the Subsidiary meets the definition of Unrestricted Subsidiary. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Issuer and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant described above under the caption Restricted Payments or under one or more clauses of the definition of Permitted Investments, as determined by the Issuer. That designation will only be permitted if the Investment would be permitted at that time (other than pursuant to clause (10) of the definition of Permitted Investments) and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Issuer may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

Any designation of a Subsidiary of the Issuer as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officers Certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption Restricted Payments. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Issuer as of such date and, if such Indebtedness is not permitted to be incurred as of such date under the covenant described under the caption Incurrence of Indebtedness and Issuance of Preferred Stock, the Issuer will be in default of such covenant. The Board of Directors of the Issuer may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Issuer; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Issuer of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under the covenant described under the caption Incurrence of Indebtedness and Issuance of Preferred Stock, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

### ***Impairment of Security Interest***

Subject to the Intercreditor Agreement, neither the Issuer nor any of the Restricted Subsidiaries will take or omit to take any action which would adversely affect or impair in any material respect the Liens in favor of the Collateral Agent with respect to the Collateral, except as otherwise permitted or required by the Security Documents or the Indenture. Neither the Issuer nor any of the Restricted Subsidiaries will enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than the First Lien Obligations and the notes, unless such agreement permits such Issuer or Restricted Subsidiary to first repay, or offer to repay, First Lien Obligations and the notes. The Issuer shall, and shall cause each Guarantor to, at its sole cost and expense, execute and deliver all such agreements and

instruments as the Collateral Agent or the Trustee shall reasonably request to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Security Documents. The Issuer shall, and shall cause each Guarantor to, at its sole cost and expense, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Security Documents at such times and at such places as the Collateral Agent or the Trustee may reasonably request.

***Real Estate Mortgages and Filings***

With respect to any real property or any Oil and Gas Properties (individually and collectively, the *Premises* ) owned by the Issuer or a Domestic Subsidiary (other than Unrestricted Subsidiaries) on the Issue Date and with respect to any such Premises to be acquired by the Issuer or a Domestic Subsidiary (other than Unrestricted Subsidiaries) after the Issue Date, subject to the terms of the Intercreditor Agreement:

(1)

The Issuer shall deliver to the Collateral Agent, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Issuer or the applicable Domestic Subsidiary, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the Premises purported to be covered thereby;

(2)

The Issuer shall deliver to the Collateral Agent mortgagee's title insurance policies or title opinions (as applicable) in favor of the Collateral Agent, as mortgagee for the ratable benefit of the Collateral Agent, the Trustee and the holders in an amount equal to 90% of the Fair Market Value of the Premises purported to be covered by the related Mortgage, insuring that title to such property is marketable or opining to the title of such property, as applicable, and that the interests created by the Mortgage constitute valid Liens thereon free and clear of all Liens, defects and encumbrances other than Permitted Liens together with customary endorsements, coinsurance and reinsurance typical for the applicable jurisdiction and accompanied by evidence of the payment in full of all premiums thereon;

(3)

The Issuer shall deliver to the Collateral Agent, to the extent provided to any First Lien Agent, with respect to each of the covered Premises, the most recent survey of such Premises prepared on or on behalf of the Issuer, together with either (i) an updated survey certification in favor of the Trustee and the Collateral Agent from the applicable surveyor stating that, based on a visual inspection of the property and the knowledge of the surveyor, there has been no change in the facts depicted in the survey or (ii) an affidavit from the Issuer and the Guarantors stating that there has been no change sufficient for the title insurance company to remove all standard survey exceptions and issue the customary endorsements;

(4)

The Issuer shall deliver to the Collateral Agent, to the extent provided to any First Lien Agent, with respect to each of the covered Premises, all abstracts of title, title reports to other title information conducted on behalf of the Issuer with respect to the Premises and any reserve reports relating to Hydrocarbon Interests attributable to or included in the Collateral; and

(5)

The Issuer shall deliver an opinion(s) of approved counsel of the Issuer confirming that the Mortgages and Security Documents create a Lien, subject only to Permitted Liens, on all Collateral, which shall be from local counsel or special regulatory counsel in each state where a Premises is located covering the enforceability of the relevant Mortgages;

in each case, using commercially reasonable efforts to comply with the foregoing by the Issue Date but, in any event, no later than 90 days thereafter.

***Leasehold Mortgages and Filings; Landlord Waivers***

The Issuer and each of its Domestic Subsidiaries (other than any Unrestricted Subsidiary) agreed to use commercially reasonable efforts to deliver Mortgages with respect to the Issuer's or such Domestic Subsidiary's leasehold interests in any premises material to the business taken as a whole (the *Leased Premises*) occupied by the Issuer or such Domestic Subsidiary (other than any Unrestricted Subsidiary) pursuant to leases which may be mortgaged by their terms or the terms of the landlord consents (collectively, the *Leases*, and individually, a *Lease*) in each case using commercially



reasonable efforts to comply with the foregoing by the Issue Date but, in any event, no later than 90 days thereafter.

With respect to any leasehold Mortgage delivered pursuant to the immediately preceding paragraph, the Issuer or the applicable Subsidiary agreed to provide to the Trustee all of the items described in clauses (2), (3) and (5) of Real Estate Mortgages and Filings above and in addition agreed to use their respective commercially reasonable efforts to obtain an agreement executed by the lessor under the Lease, whereby the lessor consents to the Mortgage and waives or subordinates its landlord Lien (whether granted by the instrument creating the leasehold estate or by applicable law), if any, and which shall be entered into by the Collateral Agent.

The Issuer and each of its Domestic Subsidiaries that is a lessee of, or becomes a lessee of, real property material to the business, is, and will be, required to use commercially reasonable efforts to deliver to the Collateral Agent a landlord waiver, in the form reasonably acceptable to the Collateral Agent executed by the lessor of such real property; *provided* that in the case where such lease is a lease in existence on the Issue Date, the Issuer or its Domestic Subsidiary that is the lessee thereunder shall have 90 days from the Issue Date to satisfy such requirement.

***Advances to Subsidiaries***

All advances to Restricted Subsidiaries made by the Issuer after the Issue Date will be evidenced by intercompany notes in favor of the Issuer. These intercompany notes will be pledged pursuant to the Security Documents as Collateral to secure the notes. Each intercompany note will be payable upon demand and will bear interest at the same rate as the notes and will be subordinated

in right of payment to all existing Senior Debt of the Restricted Subsidiary to which the loan is made. *Senior Debt* of Restricted Subsidiaries for the purposes of the intercompany notes will be defined as all Indebtedness of the Restricted Subsidiaries that is not specifically by its terms made *pari passu* with or junior to the intercompany notes. A form of intercompany note will be attached as an exhibit to the Indenture. Repayments of principal with respect to any intercompany notes will be required to be pledged pursuant to the Security Documents as Collateral to secure the notes until such amounts are advanced to a Subsidiary in accordance with the Indenture.

The Issuer will not permit any Restricted Subsidiary in respect of which the Issuer is a creditor by virtue of an intercompany note to incur any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of such Restricted Subsidiary and senior in any respect in right of payment to any intercompany note.

### ***Payments for Consent***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any holder of notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture or the notes unless such consideration is offered to be paid and is paid to all holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

### ***Post-Closing***

Certain security interests in the Collateral may not have been in place on the Issue Date or may not have been perfected on the Issue Date. The Issuer and the Guarantors agreed to use their respective commercially reasonable efforts to perfect on the Issue Date the security interests in the Collateral for the benefit of the holders of the notes and the First Lien Obligations that were created on the Issue Date but, to the extent any such security interest or liens were not perfected by such date, the Issuer and the Guarantors agreed to do or cause to be done all acts and things that may be required, including using commercially reasonable efforts to obtain any required consents from third parties, to have all security interests in the Collateral duly created and enforceable and perfected, in each case solely to the extent required by the Security Documents, promptly following the Issue Date, but in any event no later than the date 60 days thereafter. In addition, the Security Documents may not require that all Collateral be perfected if such Collateral cannot be perfected by the filing of UCC financing statements or the recording of mortgages or deeds of trust.

### ***Further Assurances***

The Issuer and the Guarantors agreed to execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Collateral Agent may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the Security Documents in the Collateral. In addition, from time to time, the Issuer will reasonably promptly secure the obligations under the Indenture and the Security Documents by pledging or creating, or causing to be pledged or created, perfected security interests with respect to the Collateral. The Issuer shall deliver or cause to be delivered to the Collateral Agent all such instruments and documents as the Collateral Agent shall reasonably request to evidence compliance with this covenant.

### ***Reports***

Whether or not required by the rules and regulations of the SEC, so long as any notes are outstanding, the Issuer and the Guarantors will make available on a publicly available website, within the time periods specified in the SEC's rules and regulations:

(1)

all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Issuer were required to file such reports; and

(2)

all current reports that would be required to be filed with the SEC on Form 8-K if the Issuer were required to file such reports.

All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. Each annual report on Form 10-K will include a report on the Issuer's consolidated financial statements by the Issuer's certified independent accountants. In addition, the Issuer will file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing) and will post the reports on its website within those time periods.

If, at any time after consummation of the exchange offer contemplated by the registration rights agreement, the Issuer is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Issuer will nevertheless continue filing the reports specified in the preceding paragraphs of this covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Issuer will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Issuer's filings for any reason, the Issuer will post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if the Issuer were required to file those reports with the SEC.

If the Issuer has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Issuer and the Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Issuer.

In addition, the Issuer and the Guarantors agree that, for so long as any of the notes remain outstanding, if at any time they are not required to file with the SEC the reports required by the preceding paragraphs, they will furnish to the holders of notes and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

#### **Events of Default and Remedies**

Each of the following is an *Event of Default* :

(1)

default for 30 days in the payment when due of interest on, or Additional Interest, if any, with respect to, the notes;

(2)

default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the notes;

(3)

failure by the Issuer or any of its Restricted Subsidiaries to comply with the provisions described under the captions Repurchase at the Option of Holders Change of Control, Repurchase at the Option of Holders Asset Sales, or Covenants Merger, Consolidation or Sale of Assets;

(4)

failure by the Issuer or any of its Restricted Subsidiaries for 60 days after notice to the Issuer by the Trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding voting as a single class to comply with any of the other agreements in the Indenture;

(5)

default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee existed as of the Issue Date, or is created after the Issue Date, if that default:

(a)

is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a *Payment Default* ); or

(b)

results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$5.0 million or more;

(6)

failure by the Issuer or any of its Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$5.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(7)

except as permitted by the Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor, or any Person acting on behalf of any Guarantor, denies or disaffirms its obligations under its Note Guarantee;

(8)

(x) any Security Document at any time for any reason shall cease to be in full force and effect in all material respects;  
(y) any Security Document ceases to give the Collateral Agent the Liens, rights, powers and privileges purported to be created thereby with respect to any Collateral having a Fair Market Value in excess of \$1.0 million, superior to

and prior to the rights of all third Persons other than the holders of Permitted Liens and subject to no other Liens except as expressly permitted by the applicable Security Document or the Indenture; or (z) the Issuer or any of the Guarantors, directly or indirectly, contests in any manner the effectiveness, validity, binding nature or enforceability of any Security Document; and

(9)

certain events of bankruptcy or insolvency described in the Indenture with respect to the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary.

In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to the Issuer, any Restricted Subsidiary of the Issuer that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary, all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately.

Subject to certain limitations, holders of a majority in aggregate principal amount of the then outstanding notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal, interest or premium or Additional Interest, if any.

Subject to the provisions of the Indenture and the Security Documents relating to the duties of the Trustee and the Collateral Agent, in case an Event of Default occurs and is continuing, neither the Trustee nor the Collateral Agent will be under any obligation to exercise any of the rights or powers under the Indenture or any Security Document at the request or direction of any holders of notes unless such holders have offered to the Trustee or the Collateral Agent, as the case may be, reasonable indemnity or security against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest or Additional Interest if any, when due, no holder of a note may pursue any remedy with respect to the Indenture or the notes unless:

(1)

such holder has previously given the Trustee notice that an Event of Default is continuing;

(2)

holders of at least 25% in aggregate principal amount of the then outstanding notes have requested the Trustee to pursue the remedy;

(3)

such holders have offered the Trustee reasonable security or indemnity against any loss, liability or expense;

(4)

the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and

(5)

holders of a majority in aggregate principal amount of the then outstanding notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

The holders of a majority in aggregate principal amount of the then outstanding notes by notice to the Trustee may, on behalf of the holders of all of the notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest or premium or Additional Interest, if any, on, or the principal of, the notes.

In the case of any Event of Default occurring by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Issuer with the intention of avoiding payment of the premium that the Issuer would have had to pay if the Issuer then had elected to redeem the notes pursuant to the optional redemption provisions of the Indenture, an equivalent premium will also become and be immediately due and payable to the extent permitted by law upon the acceleration of the notes. If an Event of Default occurs prior to January 1, 2014, by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Issuer with the intention of avoiding the prohibition on redemption of the notes prior to January 1, 2014, then an additional premium specified in the Indenture will also become and be immediately due and payable to the extent permitted by law upon the acceleration of the notes.

The Issuer is required to deliver to the Trustee annually a statement regarding compliance with the Indenture. Upon becoming aware of any Default or Event of Default, the Issuer is required to deliver to the Trustee a statement specifying such Default or Event of Default.

## **No Personal Liability of Directors, Officers, Employees and Stockholders**

No director, officer, employee, incorporator or stockholder of the Issuer or any Guarantor, as such, will have any liability for any obligations of the Issuer or the Guarantors under the notes, the Indenture, the Note Guarantees, the Security Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

## **Legal Defeasance and Covenant Defeasance**

The Issuer may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officers Certificate, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Note Guarantees ( Legal Defeasance ) except for:

(1)

the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium and Additional Interest, if any, on, such notes when such payments are due from the trust referred to below;

(2)

the Issuer's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(3)

the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's and the Guarantors' obligations in connection therewith; and

(4)

the Legal Defeasance and Covenant Defeasance provisions of the Indenture.

In addition, the Issuer may, at its option and at any time, elect to have the obligations of the Issuer and the Guarantors released with respect to certain covenants (including its obligation to make Change of Control Offers and Asset Sale Offers) that are described in the Indenture ( *Covenant Defeasance* ) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event Covenant Defeasance occurs, certain events (not including non-payment, bankruptcy, receivership, rehabilitation and insolvency events) described under Events of Default and Remedies will no longer constitute an Event of Default with respect to the notes.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1)

the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium and Additional Interest, if



any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Issuer must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;

(2)

in the case of Legal Defeasance, the Issuer must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that (a) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3)

in the case of Covenant Defeasance, the Issuer must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4)

no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(5)

such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the Indenture) to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(6)

the Issuer must deliver to the Trustee an Officers Certificate stating that the deposit was not made by the Issuer with the intent of preferring the holders of notes over the other creditors of the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or any Guarantor or others; and

(7)

the Issuer must deliver to the Trustee an Officers Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

### **Amendment, Supplement and Waiver**

Except as provided in the next three succeeding paragraphs, the Indenture or the notes or the Note Guarantees or the Security Documents may be amended or supplemented with the consent of the holders of at least a majority in aggregate principal amount of the notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), and any existing Default or Event of Default or compliance with any provision of the Indenture or the notes or the Note Guarantees or the Security Documents may be waived with the consent of the holders of a majority in aggregate principal amount of the then outstanding notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Without the consent of each holder of notes affected, an amendment, supplement or waiver may not (with respect to any notes held by a non-consenting holder):

(1)

reduce the principal amount of notes whose holders must consent to an amendment, supplement or waiver;

(2)

reduce the principal of or change the fixed maturity of any note or alter the provisions with respect to the redemption of the notes (other than provisions relating to the covenants described above under the caption Repurchase at the Option of Holders );

(3)

reduce the rate of or change the time for payment of interest, including default interest, on any note;

(4)

waive a Default or Event of Default in the payment of principal of, or interest or premium, or Additional Interest, if any, on, the notes (except a rescission of acceleration of the notes by the holders of at least a majority in aggregate principal amount of the then outstanding notes and a waiver of the payment default that resulted from such acceleration);

(5)

make any note payable in money other than that stated in the notes;

(6)

make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of holders of notes to receive payments of principal of, or interest or premium or Additional Interest, if any, on, the notes;

(7)

waive a redemption payment with respect to any note (other than a payment required by one of the covenants described above under the caption "Repurchase at the Option of Holders");

(8)

release any Guarantor from any of its obligations under its Note Guarantee or the Indenture, except in accordance with the terms of the Indenture; or

(9)

make any change in the preceding amendment and waiver provisions.

In addition, any amendment to, or waiver of, the provisions of the Indenture, any Security Document or the Intercreditor Agreement that has the effect of releasing all or substantially all of the Collateral from the Liens securing the notes or subordinating Liens securing the notes (except as permitted by the terms of the Indenture, the Security Documents and the Intercreditor Agreement) will require the consent of the holders of at least  $66\frac{2}{3}\%$  in aggregate principal amount of the notes then outstanding.

Notwithstanding the preceding, without the consent of any holder of notes, the Issuer, the Guarantors and the Trustee may amend or supplement the Indenture, the notes or the Note Guarantees:

(1)

to cure any ambiguity, defect or inconsistency;

(2)

to provide for uncertificated notes in addition to or in place of certificated notes;

(3)

to provide for the assumption of the Issuer's or a Guarantor's obligations to holders of notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Issuer's or such Guarantor's assets, as applicable;

(4)

to make any change that would provide any additional rights or benefits to the holders of notes or that does not adversely affect the legal rights under the Indenture of any such holder;

(5)

to comply with requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act;

(6)

to conform the text of the Indenture, the Note Guarantees, the Intercreditor Agreement or other Security Documents or the notes to any provision of this Description of Notes to the extent that such provision in this Description of Notes was intended to be a verbatim recitation of a provision of the Indenture, the Note Guarantees, the Intercreditor Agreement or other Security Documents or the notes;

(7)

to provide for the issuance of additional notes in accordance with the limitations set forth in the Indenture as of the Issue Date;

(8)

to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the notes; or

(9)

to evidence or provide for the acceptance of appointment under the Indenture of a successor trustee.

The consent of the holders is not necessary under the Indenture to approve the particular form of any proposed amendment, waiver or consent. It is sufficient if such consent approves the substance of the proposed amendment, waiver or consent. The consent of the holders is also not necessary for any amendment, waiver or other modification described in the paragraph under the heading "Intercreditor Agreement Amendments to Security Documents."

### **Satisfaction and Discharge**

The Indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when:

(1)

either:

(a)

all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to the Issuer, have been delivered to the Trustee for cancellation; or

(b)

all notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption (or delivering such notice of redemption in accordance with the procedures of DTC) or otherwise or will become due and payable within one year and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the notes not delivered to the Trustee for cancellation for principal, interest and premium, Additional Interest, if any, and accrued interest to the date of maturity or redemption;

(2)

no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(3)

the Issuer or any Guarantor has paid or caused to be paid all sums payable by it under the Indenture; and

(4)

the Issuer has delivered irrevocable instructions to the Trustee under the Indenture to apply the deposited money toward the payment of the notes at maturity or on the redemption date, as the case may be.

In addition, the Issuer must deliver an Officers Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

### **Concerning the Trustee**

If the Trustee becomes a creditor of the Issuer or any Guarantor, the Indenture limits the right of the Trustee to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee will be permitted to engage in other transactions; *however*, if it acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee (if the Indenture has been qualified under the Trust Indenture Act) or resign.

The holders of a majority in aggregate principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee, subject to certain exceptions. The Indenture provides that in case an Event of Default occurs and is continuing, the Trustee will be required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to such provisions, the Trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any holder of notes, unless such holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

### **Governing Law**

The Indenture will provide that it, the notes, the Note Guarantees and the Security Documents will be governed by, and construed in accordance with, the laws of the State of New York.

### **Additional Information**

Anyone who receives this prospectus may obtain a copy of the Indenture and registration rights agreement without charge by writing to Saratoga Resources, Inc., 7500 San Felipe, Suite 675, Houston, Texas 77063, Attention: Chief Accounting Officer.

### **Book-Entry, Delivery and Form**

The exchange notes will be issued initially only in the form of one or more global notes (collectively, the Global Notes ). The Global Notes will be deposited upon issuance with the trustee as custodian for The Depository Trust Company ( DTC ), in New York, New York, and registered in the name of DTC 's nominee, Cede & Co., in each case for credit to an account of a direct or indirect participant in DTC as described below. Beneficial interests in the Global Notes may be held through the Euroclear System ( Euroclear ) and Clearstream Banking, S.A. ( Clearstream ) (as indirect participants in DTC).

The Global Notes may be transferred, in whole but not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for notes in registered, certificated form ( Certificated Notes ) except in the limited circumstances described below. See Exchange of Global Notes for Certificated Notes. Transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Euroclear and Clearstream), which may change from time to time.

### **Depository Procedures**

The following description of the operations and procedures of DTC, Euroclear and Clearstream are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes from time to time by them. We take no responsibility for these operations and procedures and urge investors to contact the system or their participants directly to discuss these matters.

DTC has advised us that DTC is a limited-purpose trust company organized under the New York Banking Law, a banking organization within the meaning of the New York Banking Law, a member of the Federal Reserve System, a clearing corporation within the meaning of the New York Uniform Commercial Code and a clearing agency registered pursuant to the provisions of Section 17A of the Exchange Act. DTC was created to hold securities for its participating organizations (collectively, the Participants ) and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the Indirect Participants ). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised us that, pursuant to procedures established by it:

(1)

upon deposit of the Global Notes, DTC will credit the accounts of Participants designated by the exchange agent with portions of the principal amount of the Global Notes; and

(2)

ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC or its nominee (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interests in the Global Notes).

Investors in the Global Notes who are Participants in DTC's system may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants in such system. Euroclear and Clearstream may hold interests in the Global Notes on behalf of their participants through customers' securities accounts in their respective names on the books of their respective depositories, which are Euroclear Bank S.A./N.V., as operator of Euroclear, and Citibank, N.A., as operator of Clearstream. All interests in a Global Note, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems.

The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

**Except as described below, owners of an interest in the Global Notes will not have notes registered in their names, will not receive physical delivery of Certificated Notes and will not be considered the registered owners or holders thereof under the Indenture for any purpose.**

Payments in respect of the principal of, and interest and premium (if any) on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the Indenture. Under the terms of the Indenture, the Issuer, the Guarantors and the trustee will treat the Persons in whose names the notes, including the Global Notes, are registered as the owners of the notes for the purpose of receiving payments and for all other purposes. Consequently, neither the Issuer, the Guarantors, the trustee nor any agent of an Issuer or the trustee has or will have any responsibility or liability for:

(1)

any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interests in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or

(2)

any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised us that its current practice, at the due date of any payment in respect of securities such as the notes, is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to



believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the notes as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or the Issuer. Neither the Issuer nor the trustee will be liable for any delay by DTC or any of its Participants in identifying the beneficial owners of the notes, and the Issuer and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers of exchange notes between Participants will be effected in accordance with DTC's procedures and will be settled in same-day funds, and such transfers between participants in Euroclear and Clearstream will be effected in accordance with their respective rules and operating procedures.

Cross-market transfers of exchange notes between the Participants in DTC, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, as the case may be, by its depository; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its depository to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance

with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised us that it will take any action permitted to be taken by a holder of notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the notes, DTC reserves the right to exchange the Global Notes for Certificated Notes, and to distribute such notes to its Participants.

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures to facilitate transfers of interests in the Global Notes among participants in DTC, Euroclear and Clearstream, they are under no obligation to perform or to continue to perform such procedures, and may discontinue such procedures at any time. None of the Issuer, the trustee or any of their respective agents will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

### **Exchange of Global Notes for Certificated Notes**

A Global Note is exchangeable for Certificated Notes in minimum denominations of \$2,000 and in integral multiples of \$1,000 in excess of \$2,000, if:

(1)

DTC (a) notifies the Issuer that it is unwilling or unable to continue as depository for the Global Notes or (b) has ceased to be a clearing agency registered under the Exchange Act and, in either case, the Issuer fails to appoint a successor depository within 90 days;

(2)

the Issuer, at its option, notifies the trustee in writing that it elects to cause the issuance of the Certificated Notes; or

(3)

there has occurred and is continuing a Default or Event of Default with respect to the notes.

In addition, beneficial interests in the notes may be exchanged for Certificated Notes upon prior written notice given to the trustee by or on behalf of DTC in accordance with the Indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures).

### **Exchange of Certificated Notes for Global Notes**

Certificated Notes may not be exchanged for beneficial interests in any Global Note, except in the limited circumstances provided in the Indenture.

### **Same Day Settlement and Payment**

If a holder has given wire instructions to the Issuer, the Issuer will make payments in respect of the notes represented by the Global Notes (including principal, premium, if any, and interest) by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. If a holder has given wire instructions to the Issuer, the Issuer will make all payments of principal, interest and premium, if any, with respect to Certificated Notes by wire transfer

of immediately available funds to the accounts specified by the holders of the Certificated Notes. All other payments on the notes will be made at the office or agency of the paying agent and registrar unless the Issuer elects to make interest payments by check mailed to the holders at their addresses set forth in the register of holders. The notes represented by the Global Notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such notes will, therefore, be required by DTC to be settled in immediately available funds. The Issuer expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a Participant will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised us that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a Participant will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

## Certain Definitions

Set forth below are certain defined terms used in the Indenture. Reference is made to the Indenture for a full disclosure of all defined terms used therein, as well as any other capitalized terms used herein for which no definition is provided.

*Acquired Debt* means, with respect to any specified Person:

(1)

Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person or expressly assumed in connection with the acquisition of assets from any such Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and

(2)

Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Acquired Debt will be deemed to be incurred on the date the acquired Person becomes a Subsidiary.

*Additional Interest* means all liquidated damages then owing pursuant to the registration rights agreement.

*Adjusted Consolidated Net Tangible Assets* means (without duplication), as of the date of determination:

(1)

the sum of:

(a)

discounted future net revenue from proved crude oil and natural gas reserves of the Issuer and its Restricted Subsidiaries calculated in accordance with SEC guidelines (but giving effect to applicable Oil and Gas Hedging Contracts in place as of the date of determination (whether positive or negative)) before any state or federal income taxes, as estimated in a reserve report prepared by the Issuer as of the end of the Issuer's most recently completed fiscal year, as increased by, as of the date of determination, the discounted future net revenue (giving effect to applicable Oil and Gas Hedging Contracts in place as of the date of determination (whether positive or negative)) from:

(i)

estimated proved crude oil and natural gas reserves of the Issuer and its Restricted Subsidiaries attributable to acquisitions consummated since the date of such year-end reserve report, and

(ii)

estimated crude oil and natural gas reserves of the Issuer and its Restricted Subsidiaries attributable to extensions, discoveries and other additions and upward determinations of estimates of proved crude oil and natural gas reserves (including previously estimated development costs incurred during the period and the accretion of discount since the prior year end) due to exploration, development or exploitation, production or other activities which reserves were not reflected in such year-end reserve report,

in each case calculated in accordance with SEC guidelines (utilizing the prices utilized in such year-end reserve report), and decreased by, as of the date of determination, the discounted future net revenue attributable to

(iii)

estimated proved crude oil and natural gas reserves of the Issuer and its Restricted Subsidiaries reflected in such year-end reserve report produced or disposed of since the date of such year-end reserve report and

(iv)

reductions in the estimated proved crude oil and natural gas reserves of the Issuer and its Restricted Subsidiaries reflected in such year-end reserve report since the date of such year-end reserve report attributable to downward determinations of estimates of proved crude oil and natural gas reserves due to exploration, development or exploitation, production or other activities conducted or otherwise occurring since the date of such year-end reserve report, in each case calculated in accordance with SEC guidelines (utilizing the prices utilized in such year-end reserve report);

*provided, however,* that in the case of each of the determinations made pursuant to clauses (i) through (iv), such increases and decreases shall be as estimated by the Issuer's petroleum engineers, unless there is a Material Change as a result of such acquisitions, dispositions or revisions, in which case the discounted future net revenues utilized for purposes of this clause 1(a) shall be confirmed in a written report of independent petroleum engineers delivered to the Trustee.

(b)

the capitalized costs that are attributable to crude oil and natural gas properties of the Issuer and its Restricted Subsidiaries to which no proved crude oil and natural gas reserves are attributed, based on the Issuer's books and records as of a date no earlier than the date of the Issuer's latest annual or quarterly financial statements; *provided* that (1) the amount of capitalized costs incurred prior to the Issue Date and included pursuant to this clause (b) shall not exceed \$20.0 million and (2) the aggregate value of the capitalized costs included pursuant to this clause (b) and the tangible assets included pursuant to clause (d) of this definition shall not exceed \$80.0 million;

(c)

the Net Working Capital on a date no earlier than the date of the Issuer's latest annual or quarterly financial statements; and

(d)

the greater of (I) the net book value on a date no earlier than the date of the Issuer's latest annual or quarterly financial statements and (II) the appraised value, as estimated by independent appraisers, of other tangible assets of the Issuer and its Restricted Subsidiaries as of a date no earlier than the date of the Issuer's latest audited financial statements; *provided* that if no such appraisal has been performed, the Issuer shall not be required to obtain such an appraisal and only clause (d)(I) of this definition shall apply; *provided further* that (1) the amount of other tangible assets incurred prior to the Issue Date and included pursuant to this clause (d) shall not exceed \$20.0 million and (2) the aggregate value of the tangible assets included pursuant to this clause (d) and the capitalized costs included pursuant to clause (b) of this definition shall not exceed \$80.0 million; *provided further* that this clause (d) shall exclude any value of the tangible assets included pursuant to clause (a) of this definition including, but not limited to, any reduction in operating costs that is included in the Issuer's present value of estimated future oil and gas revenues, net of estimated direct expenses, discounted at an annual discount rate of 10%;

(2)

*minus*, to the extent not otherwise taken into account in the immediately preceding clause (1), the sum of:

(a)

minority interests;

(b)

any net gas balancing liabilities of the Issuer and its Restricted Subsidiaries reflected in the Issuer's latest audited financial statements or the Issuer's most recent quarterly balance sheet if it reflects greater gas balancing liabilities;

(c)

the discounted future net revenue, calculated in accordance with SEC guidelines (utilizing the same prices utilized in the Issuer's year-end reserve report), attributable to reserves subject to participation interests, overriding royalty interests or other interests of third parties, pursuant to participation, partnership, vendor financing or other agreements then in effect, or which otherwise are required to be delivered to third parties;

(d)

the discounted future net revenue, calculated in accordance with SEC guidelines (utilizing the same prices utilized in the Issuer's year-end reserve report), attributable to reserves that are required to be delivered to third parties to fully satisfy the obligations of the Issuer and its Restricted Subsidiaries with respect to Volumetric Production Payments on the schedules specified with respect thereto; and

(e)

the discounted future net revenue, calculated in accordance with SEC guidelines, attributable to reserves subject to Dollar-Denominated Production Payments that, based on the estimates of production included in determining the discounted future net revenue specified in the immediately preceding clause (1)(a) (utilizing the same prices utilized in the Issuer's year-end reserve report), would be necessary to satisfy fully the obligations of the Issuer and its Restricted Subsidiaries with respect to Dollar-Denominated Production Payments on the schedules specified with respect thereto.

If the Issuer changes its method of accounting from the successful efforts method to the full cost method or a similar method of accounting, Adjusted Consolidated Net Tangible Assets will continue to be calculated as if the Issuer were still using the successful efforts method of accounting.

*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* that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms controlling, controlled by and under common control with have correlative meanings.

*Applicable Premium* means, as determined by the Issuer, with respect to any note on any redemption date, the greater of:

(1)

1.0% of the principal amount of the note; or

(2)

the excess of:

(a)

the present value at such redemption date of (i) the redemption price of the note at January 1, 2014, (such redemption price being set forth in the table appearing under the caption *Optional Redemption*) plus (ii) all required interest payments due on the note through January 1, 2014, (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over

(b)

the principal amount of the note, if greater.

*As-Extracted Collateral* means:

(1)

oil, gas or other minerals that are subject to a security interest that:

(a)

is created by a debtor having an interest in the minerals before extraction; and

(b)

attaches to the minerals as extracted; or

(2)

accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals in which the debtor had an interest before extraction.

*Asset Sale* means:

(1)

the sale, lease (other than operating leases entered into in the ordinary course of business), conveyance or other disposition of any assets or rights including Production Payments and Reserve Sales; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole will be governed by the provisions of the Indenture described above under the caption *Repurchase at the Option of Holders* *Change of Control* and/or the provisions described above under the caption *Certain Covenants* *Merger, Consolidation or Sale of Assets* and not by the provisions of the Asset Sale covenant; and



(2)

the issuance of Equity Interests in any of the Issuer's Restricted Subsidiaries or the sale of Equity Interests in any of the Issuer's Restricted Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1)

any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$1.0 million;

(2)

a transfer of assets between or among the Issuer and its Restricted Subsidiaries;

(3)

an issuance of Equity Interests by a Restricted Subsidiary of the Issuer to the Issuer or to a Restricted Subsidiary of the Issuer;

(4)

the sale or lease of products, services or accounts receivable in the ordinary course of business and any sale or other disposition of damaged, worn-out, no longer useful or obsolete assets in the ordinary course of business;

(5)

the sale or other disposition of cash or Cash Equivalents;

(6)

the surrender or waiver of contract rights, oil and gas leases, or the settlement, release or surrender of contract, tort or other claims of any kind;

(7)

the abandonment, farm-out, lease or sublease of developed or undeveloped Oil and Gas Properties in the ordinary course of business;

(8)

any Production Payment and Reserve Sale, other than incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists and other providers of technical services to the Issuer or a Restricted Subsidiary, created, issued or assumed in connection with the financing of the acquisition of oil and gas properties that are subject thereto (and within 90 days after such acquisition), so long as the owner or



purchaser of such Production Payment and Reserve Sale has recourse solely to such oil and gas properties and to the proceeds thereof, subject to the obligation of the grantor or transferor of such Production Payment and Reserve Sale to operate and maintain the related oil and gas properties in a prudent manner or other customary standard, to deliver the associated production (if required) and to indemnify with respect to environmental, title and other matters customary in the Oil and Gas Business;

(9)

the sale or transfer (whether or not in the ordinary course of business) of any Oil and Gas Property or interest therein to which no proved or probable reserves are attributable at the time of such sale or transfer;

(10)

the sale or transfer of Hydrocarbons or other mineral products in the ordinary course of business;

(11)

any trade or exchange by the Issuer or any Restricted Subsidiary of Oil and Gas Properties or other properties or assets for Oil and Gas Properties or other properties or assets owned or held by another Person; provided that the Fair Market Value of the properties or assets traded or exchanged by the Issuer or such Restricted Subsidiary (together with any cash) is reasonably equivalent to the Fair Market Value of the properties or assets (together with any cash) to be received by the Issuer or such Restricted Subsidiary; provided further that any net cash received must be applied in accordance with the provisions described above under the caption Repurchase at the Option of Holders Asset Sales; and

(12)

a Restricted Payment that does not violate the covenant described above under the caption Certain Covenants Restricted Payments or a Permitted Investment.

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

*Board of Directors* means:

(1)

with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2)

with respect to a partnership, the board of directors of the general partner of the partnership;

(3)

with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(4)

with respect to any other Person, the board or committee of such Person serving a similar function.

*Business Day* means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York are authorized or required by law to close.

*Capital Lease Obligation* means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

*Capital Stock* means:

(1)

in the case of a corporation, corporate stock;

(2)

in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3)

in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and

(4)

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, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

*Cash Equivalents* means:

(1)

United States dollars;

(2)

securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition;

(3)

certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of B or better;

(4)

repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5)

commercial paper having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within six months after the date of acquisition; and

(6)

money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

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

(1)

the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Issuer and its Subsidiaries taken as a whole to any person (as that term is used in Section 13(d) of the Exchange Act);

(2)

the adoption of a plan relating to the liquidation or dissolution of the Issuer;

(3)

the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any person (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the

Voting Stock of the Issuer, measured by voting power rather than number of shares;

(4)

the Issuer consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Issuer, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Issuer or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Issuer outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance); or

(5)

the first day on which a majority of the members of the Board of Directors of the Issuer are not Continuing Directors.

*Collateral* has the meaning assigned to it in the Security Documents.

*Consolidated Cash Flow* means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

(1)

an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(2)

provision for federal taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for federal taxes was deducted in computing such Consolidated Net Income; *plus*

(3)

the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(4)

depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus*

(5)

non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

*Consolidated Net Income* means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided that*:

(1)

the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;

(2)

the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;

(3)

the cumulative effect of a change in accounting principles will be excluded;

(4)

any ceiling limitation on oil and gas properties or other asset impairment writedowns under GAAP or SEC guidelines; and

(5)

notwithstanding clause (1) above, the Net Income of any Unrestricted Subsidiary will be excluded, whether or not distributed to the specified Person or one of its Subsidiaries.

*Continuing Directors* means, as of any date of determination, any member of the Board of Directors of the Issuer who:

(1)

was a member of such Board of Directors on the Issue Date; or

(2)

was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

*Credit Agreement* means that certain credit agreement, to be entered into on or after the Issue Date, by and among the Issuer, the subsidiary guarantors party thereto, the lenders party thereto from time to time and CorePointe Capital Finance, LLC, as administrative agent for the lenders thereunder, providing for revolving credit borrowings, including any related notes, guarantees, security documents, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

*Credit Facilities* means, one or more debt facilities or agreements (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case, with banks or other institutional lenders, commercial finance companies, creditors, investors or other lenders providing for revolving credit loans, term loans, bonds, debentures, hedging, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, pursuant to agreements or indentures, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time (and without limitation as to amount, terms, conditions, covenants and other provisions, including increasing the amount of available borrowings thereunder, changing or replacing agent banks and lenders thereunder or adding, removing or reclassifying Subsidiaries of the Issuer as borrowers or guarantors thereunder).

*Default* means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

*Discharge of First Lien Priority Obligations* means that (a) all of such First Lien Priority Obligations (other than contingent indemnification obligations not yet due and payable, and undrawn letters of credit, cash management and other bank



product obligations) have been indefeasibly paid, performed or discharged in full (with all such First Lien Priority Obligations consisting of monetary or payment (including reimbursement) obligations having been paid in full in cash), (b) no Person has any further right to obtain any loans, letters of credit, bankers' acceptances, or other extensions of credit under the documents relating to such First Lien Priority Obligations, (c) any and all undrawn letters of credit, bankers' acceptances or similar instruments issued under such documents have been cancelled and returned (or cash collateralized) in accordance with the terms of such documents, and (d) all cash management and other bank product obligations have been indefeasibly paid in full in cash or cash collateralized (up to but not in excess of the amount of any relevant bank product reserve).

*Disqualified Stock* means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Issuer may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described above under the caption *Certain Covenants Restricted Payments*. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of the Indenture will be the maximum amount that the Issuer and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

*Dollar-Denominated Production Payments* means production payment obligations recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

*Domestic Subsidiary* means any Restricted Subsidiary of the Issuer that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Issuer.

*DTC* means The Depository Trust Company, New York, New York, or a successor thereto registered under the Exchange Act or other applicable statute or regulation.

*Equity Interests* means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

*Equity Offering* means any public or private sale of Capital Stock (other than Disqualified Stock) made for cash on a primary basis by the Issuer after the Issue Date.

*Excess First Lien Obligations* means the sum of (a) the portion of the principal amount of the loans outstanding, the undrawn amount of all outstanding letters of credit and reimbursement obligations that are in excess of the First Lien Cap, plus (b) the portion of interest and fees on account of such portion of the loans, letters of credit, and reimbursement obligations described in clause (a) of this definition.

*Excess Second Lien Obligations* means the sum of (a) the portion of the principal amount of the notes in excess of the Second Lien Cap, plus (b) the portion of interest and fees on account of such portion of the loans described in clause (a) of this definition.

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

*Existing Indebtedness* means all Indebtedness of the Issuer and its Subsidiaries (other than Indebtedness (i) under the notes and the Note Guarantees and (ii) under the Credit Agreement) in existence on the Issue Date until such amounts are repaid.

*Fair Market Value* means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Issuer (unless otherwise provided in the Indenture).

*First Lien Agent* means the administrative agent or collateral agent under the First Lien Documents, and any of its respective successors or assigns and any initial or successor administrative agent or collateral agent under any subsequent First Lien Documents.

*First Lien Cap* means, at any time, the sum of:

(1)  
Indebtedness permitted to be incurred under clauses (1) and (15) of the second paragraph under Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock; *plus*

(2)  
\$4.0 million, solely for DIP Financings.

*First Lien Creditors* means the lenders, the issuers of letters of credit under the First Lien Documents and any other holders of First Lien Obligations.

*First Lien Documents* means (a) the Credit Agreement, the First Lien Security Documents and each of the other agreements, documents or instruments under any Credit Facility evidencing or governing any First Lien Obligations and (b) any other related documents or instruments executed and delivered pursuant to any First Lien Document described in clause (a) above evidencing or governing any First Lien Obligations thereunder.

*First Lien Obligations* means, collectively, (i) all Obligations arising under the Credit Agreement and related First Lien Documents and any other Indebtedness incurred pursuant to a Credit Facility and related First Lien Documents to the extent that such Indebtedness is secured equally and ratably with the other First Lien Obligations by the Liens on the Collateral, (ii) all reimbursement obligations (if any) and interest thereon with respect to any letter of credit or similar instruments issued pursuant to any Credit Facility described above and (iii) all Hedging Obligations, cash management obligations and similar bank product obligations of the Issuer and the Guarantors to the extent that such obligations are secured equally and ratably with the other First Lien Obligations by the Liens on the Collateral, and all fees, expenses and other amounts payable from time to time in connection therewith.

*First Lien Priority Obligations* means all First Lien Obligations exclusive of the Excess First Lien Obligations, which Excess First Lien Obligations will be excluded from (and will not constitute) First Lien Priority Obligations.

*First Lien Security Agreement* means each collateral document, mortgage, pledge or similar agreement or guaranty entered into to secure or Guarantee the First Lien Obligations, to be dated on or after the Issue Date, among the Issuer and the Guarantors in favor of the First Lien Agent, as amended or supplemented from time to time in accordance with its terms.

*First Lien Security Documents* means the First Lien Security Agreement and any other agreement, document or instrument pursuant to which a Lien is granted securing any First Lien Obligations or under which rights or remedies with respect to such Liens are governed.

*Fixed Charge Coverage Ratio* means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the *Calculation Date* ), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1)

acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect (in accordance with Regulation S-X under the Securities Act) as if they had occurred on the first day of the four-quarter reference period;

(2)

the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(3)

the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(4)

any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period;

(5)

any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter period; and

(6)

if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

*Fixed Charges* means, with respect to any specified Person for any period, the sum, without duplication, of:

(1)

the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; *plus*

(2)

the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*

(3)

any interest on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*

(4)

the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Issuer (other than Disqualified Stock) or to the Issuer or a Restricted Subsidiary of the Issuer, *times* (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP.

*Foreign Subsidiary* means any Restricted Subsidiary of the Issuer that is not a Domestic Subsidiary.

*GAAP* means generally accepted accounting principles in the United States, which are in effect from time to time.

*Government Securities* means securities that are:

(1)

direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or

(2)

obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

The term *guarantee* means a guarantee 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 or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness. When used as a verb, *guarantee* has a correlative meaning.

*Guarantee* means any guarantee by a Guarantor of the Issuer's payment Obligations under the Indenture and the notes.

*Guarantors* means (1) each Domestic Subsidiary of the Issuer on the date of the Indenture, and (2) each other Domestic Subsidiary of the Issuer that executes a Note Guarantee in accordance with the provisions of the Indenture, in each case, together with their respective successors and assigns until the Note Guarantee of such Person has been released in accordance with the provisions of the Indenture.

*Hedging Obligations* means, with respect to any specified Person, the obligations of such Person under:

(1)

interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(2)

other agreements or arrangements designed to manage interest rates or interest rate risk; and

(3)

other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

in each case, not entered into for speculative purposes.

*Holder* means a Person in whose name a note is registered.

*Hydrocarbon Interests* means all rights, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases, or other liquid or gaseous hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, net profit interests and production payment interests, including any reserved or residual interests of whatever nature.

*Hydrocarbons* means oil, natural gas, casing head gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all constituents, elements or compounds thereof and products refined or processed therefrom.

*Indebtedness* means, with respect to any specified Person:

(1)

any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

(a)

in respect of borrowed money;

(b)

evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(c)

in respect of banker's acceptances;

(d)

representing Capital Lease Obligations;

(e)

representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed; or

(f)

representing any Hedging Obligations; and

(2)

with respect to any Production Payment, any warranties or guarantees of production or payment by such Person with respect to such Production Payment but excluding other contractual obligations of such Person with respect to such Production Payment;

in each case, if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term *Indebtedness* includes all *Indebtedness* of others secured by a Lien on any asset of the specified Person (whether or not such *Indebtedness* is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any *Indebtedness* of any other Person. Subject to clause (2) of this definition, Production Payments shall not be deemed to be *Indebtedness*.

*Intercreditor Agreement* means the intercreditor agreement that is entered into on or after the Issue Date, among the Trustee, the Collateral Agent, the First Lien Agent, the Issuer and the Guarantors, and the other signatories thereto, as the same may be amended, supplemented, restated or modified from time to time.

*Investments* means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases



or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Issuer or any Subsidiary of the Issuer sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Issuer such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Issuer, the Issuer will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Issuer's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption Certain Covenants Restricted Payments. The acquisition by the Issuer or any Subsidiary of the Issuer of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Issuer or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of the covenant described above under the caption Certain Covenants Restricted Payments. Except as otherwise provided in the Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

*Issue Date* means the date of the original issuance of the notes.

*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 Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

*Material Change* means an increase or decrease (excluding changes that result solely from changes in prices) of more than 25% during a fiscal quarter in the estimated discounted future net cash flows from proved oil and gas reserves of the Issuer and its Restricted Subsidiaries, calculated in accordance with the first clause (a) of the definition of Adjusted Consolidated Net Tangible Assets; *provided, however*, that there will be excluded from the calculation of Material Change the estimated future net cash flows from:

(1)

any acquisitions during the fiscal quarter of oil and gas reserves that have been audited by a nationally recognized firm of independent petroleum engineers and on which a report or reports exist; and

(2)

any disposition of properties held at the beginning of such quarter that have been disposed of as provided in section entitled Asset Sales.

*Moody's* means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

*Mortgages* means the mortgages, deeds of trust, deeds to secure Indebtedness or other similar documents granting Liens on the Issuer's and the Restricted Subsidiaries' properties and interests, Premises and/or the Leased Premises to secure the notes.

*Net Income* means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1)

any gain (but not loss), together with any related provision for taxes on such gain (but not loss), realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or

the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and

(2)

any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss).

*Net Proceeds* means the aggregate cash proceeds received by the Issuer or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

*Net Working Capital* means:

(1)

all current assets of the Issuer and its Restricted Subsidiaries, *minus*

(2)

all current liabilities of the Issuer and its Restricted Subsidiaries, except current liabilities included in Indebtedness;

in each case, on a consolidated basis and determined in accordance with GAAP.

*Non-Recourse Debt* means Indebtedness:

(1)

as to which neither the Issuer nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;

(2)

no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Issuer or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3)

as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Issuer or any of its Restricted Subsidiaries.

*Note Guarantee* means the Guarantee by each Guarantor of the Issuer's obligations under the Indenture and the notes, executed pursuant to the provisions of the Indenture.

*Obligations* means any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

*Officer Loans* means all subordinated Indebtedness and accrued interest owed to Thomas F. Cooke and Andrew C. Clifford under the Plan of Reorganization as more fully described under Certain Relationships and Related Party Transactions Officer Loans. As of March 31, 2011, approximately \$0.7 million (including \$0.1 million of accrued interest) was owed to Messrs. Cooke and Clifford.

*Officers Certificate* means a certificate signed on behalf of the Issuer by two officers of the Issuer, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer that meets the requirements set forth in the Indenture.

*Oil and Gas Business* means:

(1)

the acquisition, exploration, development, operation and disposition of interests in oil, natural gas and other hydrocarbon properties;

(2)

the gathering, marketing, treating, processing (but not refining), storage, selling and transporting of any production from those interests, including any hedging activities related thereto; and

(3)

any activity necessary, appropriate, incidental or reasonably related to the activities described above.

*Oil and Gas Properties* means (a) Hydrocarbon Interests, including with respect to undeveloped Oil and Gas Properties, depths below which any proved reserves are then attributable; (b) the Properties now or hereafter pooled or unitized with Hydrocarbon Interests; (c) all presently existing or future unitization, pooling agreements and declarations of pooled units and the units created thereby (including without limitation all units created under orders, regulations and rules of any Governmental Authority) which may affect all or any portion of the Hydrocarbon Interests; (d) all operating agreements, contracts and other agreements, including production sharing contracts and agreements, which relate to any of the Hydrocarbon Interests or the production, sale, purchase, exchange or processing of Hydrocarbons from or attributable to such Hydrocarbon Interests; (e) all Hydrocarbons in and under and which may be produced and saved or attributable to the Hydrocarbon Interests, including all oil in tanks, and all rents, issues, profits, proceeds, products, revenues and other incomes from or attributable to the Hydrocarbon Interests; (f) all tenements, hereditaments, appurtenances and Properties in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests and (g) all Properties, rights, titles, interests and estates described or referred to above, including any and all Property, real or personal, now owned or hereinafter acquired and situated upon, used, held for use or useful in connection with the operating, working or development of any of such Hydrocarbon Interests or Property (excluding drilling rigs, automotive equipment, rental equipment or other personal Property which may be on such premises for the purpose of drilling a well or for other similar temporary uses) and including any and all oil wells, gas wells, injection wells or other wells, buildings, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, tanks and

tank batteries, fixtures, valves, fittings, machinery and parts, engines, boilers, meters, apparatus, equipment, appliances, tools, implements, cables, wires, towers, casing, tubing and rods, surface leases, rights-of-way, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

*Opinion of Counsel* means an opinion reasonably acceptable to the Trustee that meets the requirements of the Indenture. The opinion must be from legal counsel who may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer.

*Other Pari Passu Obligations* means any Indebtedness (i) ranking *pari passu* in right of payment with the notes, (ii) not secured by any Lien on the Collateral that ranks senior in priority to any Lien on the Collateral held by the Collateral Agent for the benefit of the Second Lien Creditors and (iii) containing provisions similar to those set forth in the Indenture with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets.

*Permitted Business Investments* means Investments made in the ordinary course of, and of a nature that is customary in, the Oil and Gas Business, including through agreements, transactions, interests or arrangements that permit one to share risk or costs, or satisfy other objectives customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including without limitation:

(1)

direct or indirect ownership of crude oil, natural gas, other related hydrocarbon and mineral properties or any interest therein or gathering, transportation, processing (but not refining), storage or related systems; and

(2)

the entry into operating agreements, joint ventures, processing agreements, working interests, royalty interests, mineral leases, farm-in agreements, farm-out agreements, development agreements, production sharing agreements, area of mutual interest agreements, contracts for the sale, transportation or exchange of crude oil and natural gas and related hydrocarbons and minerals, unitization agreements, pooling arrangements, joint bidding agreements, service contracts, partnership agreements (whether general or limited), or other similar or customary agreements, transactions, properties, interests or arrangements and Investments and expenditures in connection therewith or pursuant thereto, in each case made or entered into in the ordinary course of the Oil and Gas Business, excluding, however, investments in corporation and publicly-traded partnerships;

*provided that*, in each case, no such Permitted Business Investment shall be speculative in nature.

*Permitted Investments* means:

(1)

any Investment in the Issuer or in a Restricted Subsidiary of the Issuer that is a Guarantor;

(2)

any Investment in Cash Equivalents;

(3)

any Investment by the Issuer or any Restricted Subsidiary of the Issuer in a Person whose primary business is the Oil and Gas Business, if as a result of such Investment:

(a)

such Person becomes a Restricted Subsidiary of the Issuer and a Guarantor; or

(b)

such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer that is a Guarantor;

(4)

any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption Repurchase at the Option of Holders Asset Sales; *provided* that such Investments shall be pledged as Collateral to the extent the assets subject to such Asset Sale constituted Collateral;

(5)

any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Issuer;

(6)

any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuer or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons;

(7)

Investments represented by Hedging Obligations;

(8)

loans or advances to employees made in the ordinary course of business of the Issuer or any Restricted Subsidiary of the Issuer in an aggregate principal amount not to exceed \$1.0 million at any one time outstanding;

(9)

repurchases of the notes;

(10)

Permitted Business Investments; and

(11)

other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (11) that are at the time outstanding not to exceed \$5.0 million.

*Permitted Liens* means:

(1)

Liens on assets of the Issuer or any Guarantor securing Indebtedness and other Obligations, in each case incurred under Credit Facilities, that was permitted by the terms of the Indenture to be incurred and/or securing Hedging Obligations related thereto or permitted thereunder;

(2)

Liens in favor of the Issuer or the Guarantors;

(3)

Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Issuer or any Restricted Subsidiary of the Issuer; *provided* that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Issuer or such Restricted Subsidiary;

(4)

Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Issuer or any Restricted Subsidiary of the Issuer; *provided* that such Liens were in existence prior to, such acquisition, and not incurred in contemplation of, such acquisition;

(5)

Liens to secure (a) the performance of statutory obligations, surety or appeal bonds, performance bonds, or letters of credit or (b) other obligations of a like nature incurred in the ordinary course of business;

(6)

Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of the second paragraph of the covenant entitled *Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock* covering only the assets acquired with or financed by such Indebtedness; *provided, however*, such Liens are created within 180 days of the later of the acquisition, lease, completion of improvements, construction, repairs or additions or commencement of full operation of the assets or property subject to such Lien and do not encumber any other assets or property of the

Issuer or any Restricted Subsidiary other than such assets or property and assets affixed or appurtenant thereto;

(7)

Liens existing on the Issue Date;

(8)

Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(9)

Liens imposed by law, such as carriers, warehousemen, landlords and mechanics' Liens, in each case, incurred in the ordinary course of business;

(10)

survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(11)

Liens created for the benefit of (or to secure) the notes (or the Note Guarantees), including, for the sake of clarity, any additional notes permitted under the Indenture;

(12)

Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under the Indenture; *provided, however,* that:

(a)

the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(b)

the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Permitted Refinancing Indebtedness





and (y) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

(13)

provisions with respect to the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, stock sale agreements, agreements respecting Permitted Business Investments and other similar agreements entered into in the ordinary course of business;

(14)

Liens on cash or other deposits or net worth imposed by (a) customers under contracts entered into in the ordinary course of business and (b) banks or other depository institutions on accounts held at such bank or depository institution;

(15)

Liens arising under oil and gas leases or subleases, assignments, farm-out agreements, farm-in agreements, division orders, contracts for the sale, purchase, exchange, transportation, gathering or processing of Hydrocarbons, unitizations and pooling designations, declarations, orders and agreements, development agreements, joint venture agreements, partnership agreements, operating agreements, royalties, working interests, net profits interests, joint interest billing arrangements, participation agreements, production sales contracts, area of mutual interest agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or geophysical permits or agreements, licenses, sublicenses, and other agreements which are customary in the Oil and Gas Business; *provided, however*, in all instances that such Liens are limited to the assets that are the subject of the relevant agreement, program, order or contract;

(16)

Liens on pipelines and pipeline facilities that arise by operation of law; and

(17)

Liens incurred in the ordinary course of business of the Issuer or any Restricted Subsidiary of the Issuer with respect to obligations that do not exceed \$5.0 million at any one time outstanding.

*Permitted Refinancing Indebtedness* means any Indebtedness of the Issuer or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge other Indebtedness of the Issuer or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

(1)

the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);

(2)

such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the

Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(3)

if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the notes, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the notes on terms at least as favorable to the holders of notes as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(4)

such Indebtedness is incurred either by the Issuer or by the Restricted Subsidiary who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

*Person* means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

*Plan of Reorganization* means that certain Third Amended Plan of Reorganization of the Issuer and its affiliated debtors, modified as of March 31, 2010.

*Plan of Reorganization Indebtedness* means, collectively, (x) all Trade Creditor Indebtedness, (y) the State Lessor Audit Claims and (z) the Officer Loans.

*Production Payments* means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

*Production Payments and Reserve Sales* means the grant or transfer by the Issuer or a Restricted Subsidiary to any Person of a royalty, overriding royalty, net profits interest, production payment (whether volumetric or dollar-denominated), partnership

or other interest in Oil and Gas Properties, reserves or the right to receive all or a portion of the production or the proceeds from the sale of production attributable to such properties where the holder of such interest has recourse solely to such production or proceeds of production, subject to the obligation of the grantor or transferor to operate and maintain, or cause the subject interests to be operated and maintained, in a reasonably prudent manner or other customary standard or subject to the obligation of the grantor or transferor to indemnify for environmental, title or other matters customary in the Oil and Gas Business, including any such grants or transfers pursuant to incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists or other providers of technical services to the Issuer or a Restricted Subsidiary.

*Property* means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, cash, securities, accounts and contract rights.

*Restricted Investment* means an Investment other than a Permitted Investment.

*Restricted Subsidiary* of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

*S&P* means Standard & Poor's Ratings Group or any successor to the rating agency business thereof.

*SEC* means the U.S. Securities and Exchange Commission.

*Second Lien Actionable Default* means a payment default under the notes, acceleration of the Second Lien Obligations or any insolvency of the Issuer or a Guarantor.

*Second Lien Cap* means, at any time, the result of (a) the aggregate principal amount of all Indebtedness incurred under the Second Lien Documents from the Issue Date to and including the applicable time of determination in accordance with the terms thereof, minus (b) the aggregate amount of all payments of such principal under such Second Lien Documents as of such time in accordance with the terms thereof (other than any prepayment made with the proceeds of any refinancing, refunding or replacement of any such Indebtedness).

*Second Lien Creditors* means the Trustee, the Collateral Agent, each holder of notes, the beneficiaries of each indemnification obligation under the Indenture, the notes and the Security Documents, and any successor or transferee of any of the foregoing.

*Second Lien Documents* means (a) the Indenture, the notes, the Note Guarantees, the Security Documents and each of the other agreements, documents or instruments evidencing or governing any Second Lien Obligations and (b) any other related documents or instruments executed and delivered pursuant to any Second Lien Document described in clause (a) above evidencing or governing any Obligations thereunder, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

*Second Lien Obligations* means all Obligations in respect of the notes or arising under the Second Lien Documents or any of them. Second Lien Obligations shall include all interest accrued (or which would, absent the commencement of an insolvency or liquidation proceeding, accrue) after the commencement of an insolvency or liquidation proceeding in accordance with and at the rate specified in the relevant Second Lien Document whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding (including all amounts accruing on or after the commencement of an insolvency proceeding, or that would have accrued or become due but for the effect of an insolvency proceeding and irrespective of whether a claim for all or any portion of such amounts is allowable or allowed in such insolvency proceeding).

*Second Lien Priority Obligations* means all Second Lien Obligations exclusive of the Excess Second Lien Obligations, which Excess Second Lien Obligations will be excluded from (and will not constitute) Second Lien

Priority Obligations.

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

*Security Documents* means the security agreements, pledge agreements, mortgages, deeds of trust, deeds to secure debt, collateral assignments, control agreements, the Intercreditor Agreement and related agreements (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified from time to time, to secure any Second Lien Obligations or under which rights or remedies with respect to any such Lien are governed.

*Significant Subsidiary* means any Subsidiary that would be a significant subsidiary as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

*State Lessor Audit Claims* means all State Lessor Audit Royalty Claims (as defined in the Plan of Reorganization) allowed under the Plan of Reorganization. As of March 31, 2011, \$1.1 million (including \$0.4 million in penalties) remained due and owing pursuant to State Lessor Audit Royalty Claims.

*Stated Maturity* means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Issue Date, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

*Subsidiary* means, with respect to any specified Person:

(1)

any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity 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

(2)

any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof);

*provided* that associations, joint ventures or other relationships (a) which are established pursuant to a standard form operating agreement or similar agreement or which are partnerships for purposes of federal income taxation only, (b) which are not corporations or partnerships (or subject to the Uniform Partnership Act) under applicable state law and (c) whose businesses are limited to the exploration, development and operation of Oil and Gas Properties and interests owned directly by the parties in such associations, joint ventures or relationships, shall not be deemed to be Subsidiaries of such Person.

*Trade Creditor Indebtedness* means all Indebtedness owed to holders of allowed Oil Well Lien Act Claims (as defined in the Plan of Reorganization) and holders of other allowed secured and unsecured claims under the Plan of Reorganization. As of March 31, 2011, \$0.9 million was owing to holders of allowed Oil Well Lien Act Claims and holders of other secured and unsecured claims.

*Treasury Rate* means, as of any redemption date, the yield to maturity as of such redemption date of 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 the redemption 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 the redemption date to January 1, 2014; *provided, however*, that if the period from the redemption date to January 1, 2014, 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.

*Uniform Commercial Code* or *UCC* means the Uniform Commercial Code as in effect in the relevant jurisdiction from time to time.

*Unrestricted Subsidiary* means any Subsidiary of the Issuer that is designated by the Board of Directors of the Issuer as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

(1)

has no Indebtedness other than Non-Recourse Debt;

(2)

except as permitted by the covenant described above under the caption Certain Covenants Transactions with Affiliates, is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary of the Issuer unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Issuer;

(3)

is a Person with respect to which neither the Issuer 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; and

(4)

has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Issuer or any of its Restricted Subsidiaries.

*Volumetric Production Payments* means production payment obligations recorded as deferred revenue in accordance with GAAP, together with all undertakings and obligations in connection therewith.

*Voting Stock* of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

*Weighted Average Life to Maturity* means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1)

the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; *by*

(2)

the then outstanding principal amount of such Indebtedness.

## **MATERIAL U.S. FEDERAL INCOME AND ESTATE TAX CONSIDERATIONS**

### **Scope of Discussion**

The following discussion summarizes the material U.S. federal income and estate tax considerations relating to the exchange of outstanding notes for exchange notes and the ownership and disposition of the exchange notes. This discussion is based upon the Internal Revenue Code of 1986, as amended (the Code), Treasury Regulations promulgated under the Code, court decisions, published positions of the Internal Revenue Service (the IRS) and other applicable authorities, all as in effect on the date of this prospectus and all of which are subject to change or differing interpretations, possibly with retroactive effect. This discussion is limited to holders of the outstanding notes who acquired their outstanding notes in the initial offering at their issue price (i.e., the first price at which a substantial amount of the outstanding notes is sold for cash to persons other than bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers), exchange their outstanding notes for exchange notes, and hold the outstanding notes and exchange notes as capital assets within the meaning of Section 1221 of the Code. For purposes of this discussion, holder means either a U.S. Holder or a Non-U.S. Holder (each as defined below) or both, as the context may require.

This discussion does not address all of the U.S. federal income tax consequences that may be relevant to holders in light of their particular circumstances or to holders who may be subject to special treatment under U.S. federal income tax laws, such as:

financial institutions (including banks);

tax-exempt organizations;



S corporations, entities or arrangements treated as partnerships or any other pass-through entities for U.S. federal income tax purposes;

insurance companies;

mutual funds;

dealers in stocks and securities, or foreign currencies;

traders in securities that elect the mark-to-market method of tax accounting for their securities;

holders that are subject to the alternative minimum tax provisions of the Code;

certain expatriates or former long-term residents of the United States;

U.S. Holders that have a functional currency other than the U.S. dollar;

personal holding companies;

regulated investment companies;

real estate investment trusts; and

holders that hold outstanding notes or exchange notes as part of a hedge, conversion or constructive sale transaction, straddle, wash sale or other risk reduction transaction.

If a partnership (including an entity or arrangement treated as a partnership for U.S. federal income tax purposes) is a beneficial owner of outstanding notes or exchange notes, the tax treatment of a partner will generally depend upon the status of the

partner, the activities of the partnership and certain determinations made at the partner level. Partners of partnerships that are beneficial owners of outstanding notes or exchange notes should consult their tax advisors.

This discussion does not address U.S. federal taxes other than income and estate tax or the tax considerations arising under the laws of any foreign, state or local jurisdiction. No ruling has been or will be obtained from the IRS regarding any of the U.S. federal income tax consequences described below. As a result, no assurance can be given that the IRS will not assert, or that a court will not sustain, a position contrary to the conclusions set forth below.

**THIS SUMMARY IS NOT A SUBSTITUTE FOR AN INDIVIDUAL ANALYSIS OF THE TAX CONSEQUENCES RELATING TO THE EXCHANGE OF OUTSTANDING NOTES FOR EXCHANGE NOTES OR THE OWNERSHIP OR DISPOSITION OF THE EXCHANGE NOTES. WE URGE YOU TO CONSULT A TAX ADVISOR REGARDING THE PARTICULAR FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES RELATING TO THE EXCHANGE OF OUTSTANDING NOTES FOR EXCHANGE NOTES OR THE OWNERSHIP OR DISPOSITION OF THE EXCHANGE NOTES IN LIGHT OF YOUR OWN SITUATION.**

### **Exchange Offer**

We believe that the exchange of outstanding notes for exchange notes pursuant to the exchange offer will not constitute a taxable event for U.S. federal income tax purposes. As a result, (1) a holder will not recognize a taxable gain or loss as a result of exchanging such holder's outstanding notes for exchange notes; (2) the holding period of the exchange notes will include the holding period of the outstanding notes exchanged therefor; and (3) the adjusted tax basis of the exchange notes will be the same as the adjusted tax basis of the outstanding notes exchanged therefor immediately before such exchange.

### **U.S. Holders**

The following discussion applies only to U.S. Holders of the exchange notes. As used in this discussion, a U.S. Holder is a beneficial owner of an exchange note that, for U.S. federal income tax purposes, is:

an individual U.S. citizen or resident alien;

a corporation or other entity created or organized under U.S. law (federal or state, including the District of Columbia) and treated as a corporation for U.S. federal income tax purposes;

an estate the income of which is subject to U.S. federal income taxation regardless of its source; or

a trust if (1) a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) the trust has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

### ***Payments of Interest***

A U.S. Holder will be required to include the interest paid on the exchange notes as ordinary income at the time it accrues or is received in accordance with the holder's regular method of accounting for U.S. federal income tax purposes.

***Certain Contingent Payments***

In certain circumstances (see Description of the Exchange Notes Optional Redemption and Description of the Exchange Notes Repurchase at the Option of Holders Change of Control ), we may be obligated to pay amounts on the exchange notes that are in excess of stated interest and principal. We intend to take the position that the possibility that holders of the exchange notes will be paid such amounts is a remote and incidental contingency as of the issue date of the exchange notes within the meaning of the applicable Treasury Regulations. Accordingly, any such additional amount should be taxable to U.S. Holders as capital gain only at the time it accrues or is received in accordance with such holder's regular method of accounting for U.S. federal income tax purposes. Our determination that the payment of additional amounts is a remote and incidental contingency is binding upon all holders of the exchange notes, unless a holder properly discloses to the IRS that it is taking a contrary position.

***Sale, Exchange, Redemption, Retirement or Other Taxable Disposition of the Exchange Notes***

Generally, the sale, exchange, redemption, retirement or other taxable disposition of an exchange note will result in taxable gain or loss to a U.S. Holder equal to the difference between (1) the amount of cash plus the fair market value of any other property received by the holder in the sale, exchange, redemption, retirement or other taxable disposition (excluding amounts attributable to accrued and unpaid interest, which will be taxed as described under Payments of Interest above) and (2) the

holder's adjusted tax basis in the exchange note. A U.S. Holder's adjusted tax basis in an exchange note will generally equal the holder's original purchase price for the outstanding note that is exchanged therefor (minus pre-issuance accrued interest, if any).

Gain or loss recognized on the sale, exchange, redemption, retirement or other taxable disposition of an exchange note will generally be capital gain or loss and will be long-term capital gain or loss if the exchange note is held for more than one year. A reduced tax rate on capital gain generally will apply to long term capital gain of a noncorporate U.S. Holder. There are limitations on the deductibility of capital losses.

### ***Information Reporting and Backup Withholding***

Generally, interest on the exchange notes paid to a U.S. Holder is subject to information reporting with the IRS and may be subject to backup withholding (currently at a 28% rate) unless such holder (1) is a corporation or other exempt recipient and, when required, demonstrates this fact or (2) provides a taxpayer identification number and satisfies certain certification requirements. Information reporting requirements and backup withholding may also apply to the cash proceeds of a sale or other disposition of the exchange notes.

In addition to being subject to backup withholding, if a U.S. Holder does not provide us (or our paying agent) with the holder's correct taxpayer identification number or other required information, such holder may be subject to penalties imposed by the IRS. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against the holder's U.S. federal income tax liability, provided that the holder furnishes certain required information to the IRS.

### ***New Legislation Regarding Medicare Tax.***

For taxable years beginning after December 31, 2012, certain U.S. Holders that are individuals, estates or trusts will be subject to a 3.8% unearned income Medicare contribution tax on all or a portion of their net investment income, which may include all or a portion of their interest and net gains from the disposition of exchange notes. If you are a U.S. Holder that is an individual, estate or trust, you should consult your tax advisor regarding the applicability of this tax to your income and gains in respect of your investment in the exchange notes.

### **Non-U.S. Holders**

The following discussion applies only to Non-U.S. Holders of the exchange notes. As used in this discussion, a Non-U.S. Holder is a beneficial owner of an exchange note that is not a U.S. Holder.

### ***Payments of Interest***

Subject to the discussion under **Information Reporting and Backup Withholding**, below, if the portfolio interest exemption applies to a Non-U.S. Holder, payments of interest on the exchange notes will not be subject to U.S. federal income or withholding tax. The portfolio interest exemption will apply to a Non-U.S. Holder if (1) the interest is not effectively connected with such holder's conduct of a trade or business in the United States and (2) such holder satisfies each of the following requirements:

such holder does not own, actually or constructively, 10% or more of the total combined voting power of all classes of our stock entitled to vote;

such holder is not a controlled foreign corporation with respect to which we are a related person, each within the meaning of the Code; and

such holder certifies that it is not a U.S. person by providing a properly completed IRS Form W-8BEN or appropriate substitute form to (1) us (or our paying agent) or (2) a securities clearing organization, bank or other financial institution that (i) holds customers' securities in the ordinary course of its trade or business, (ii) holds the Non-U.S. Holder's exchange notes on such holder's behalf, (iii) certifies to us (or our paying agent) under penalties of perjury that it has received from such holder a signed, written statement and (iv) provides us (or our paying agent) with a copy of this statement.

If the portfolio interest exemption does not apply to a Non-U.S. Holder, then the gross amount of interest that such holder receives on an exchange note will be subject to U.S. withholding tax at a rate of 30% unless (1) the Non-U.S. Holder is eligible for a reduced withholding rate or exemption under an applicable income tax treaty, in which case such holder must provide a properly completed IRS Form W-8BEN or appropriate substitute form, or (2) the interest is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States (and, if a treaty applies, is attributable to a permanent establishment or

fixed base maintained by such holder in the United States), in which case such holder must provide a properly completed IRS Form W-8ECI or appropriate substitute form.

Any interest that is effectively connected with a Non-U.S. Holder's conduct of a trade or business in the United States generally will be subject to U.S. federal income tax at rates generally applicable to U.S. persons. In the case of a Non-U.S. Holder that is a foreign corporation, such interest may also be subject to the 30% branch profits tax.

***Sale, Exchange, Redemption, Retirement or Other Taxable Disposition of Exchange Notes***

A Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on gain realized on the sale, exchange, redemption, retirement or other taxable disposition of an exchange note unless:

the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States (and, if a treaty applies, is attributable to a permanent establishment or fixed base maintained by such holder in the United States);

the Non-U.S. Holder is an individual present in the United States for 183 days or more in the year of such sale, exchange, redemption or other taxable disposition and certain other conditions are met; or

the Non-U.S. Holder does not qualify for an exemption from backup withholding, as discussed under Information Reporting and Backup Withholding, below.

However, in certain instances a Non-U.S. Holder may be required to establish an exemption from U.S. federal income and withholding tax with respect to amounts attributable to accrued and unpaid interest on the exchange notes. See Payments of Interest, above.

***Certain U.S. Federal Estate Tax Considerations***

Exchange notes beneficially owned by an individual who is a nonresident not a citizen of the United States (as specifically defined for U.S. federal estate tax purposes) at the time of such individual's death will generally not be included in the decedent's gross estate for U.S. federal estate tax purposes if any payment of interest on the exchange notes to the holder would be eligible for the portfolio interest exemption from the 30% U.S. federal withholding tax described in the first paragraph of Payments of Interest above (without regard to the certification requirement).

***Information Reporting and Backup Withholding***

Generally, we must report to the IRS and to the Non-U.S. Holder the amount of interest paid to such holder and the amount of tax, if any, withheld with respect to those payments. Copies of the information returns reporting such interest payments and any withholding may also be made available to the tax authorities in the country in which the Non-U.S. Holder resides under the provisions of an applicable income tax treaty.

In general, a Non-U.S. Holder will not be subject to backup withholding with respect to payments of interest that we make to the holder provided that we do not have actual knowledge or reason to know that the holder is a U.S. person, as defined under the Code, and we have received from the Non-U.S. Holder the statement described above in the last bullet point under Payments of Interest.

In addition, no information reporting or backup withholding will be required regarding the proceeds of the sale of an exchange note made within the United States or conducted through certain U.S.-related financial intermediaries, if the

payor receives the statement described above in the last bullet point under "Payments of Interest" and does not have actual knowledge or reason to know that the holder is a U.S. person, as defined under the Code, or the holder otherwise establishes an exemption.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against the Non-U.S. Holder's U.S. federal income tax liability, provided that the required information is timely furnished to the IRS.

### **PLAN OF DISTRIBUTION**

Based on interpretations by the staff of the SEC in no-action letters issued to third parties, we believe that you may transfer exchange notes issued under the exchange offer in exchange for the outstanding notes if:

you acquire the exchange notes in the ordinary course of your business; and

you are not engaged in, and do not intend to engage in, and have no arrangement or understanding with any person to participate in, a distribution of such exchange notes.

You may not participate in the exchange offer if you are:

an affiliate of us or any of our subsidiary guarantors within the meaning of Rule 405 under the Securities Act, unless you comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable; or

a broker-dealer that acquired outstanding notes directly from us.

Each broker-dealer that receives exchange notes for its own account pursuant to the exchange offer must acknowledge that it will deliver this prospectus in connection with any resale of such exchange notes. To date, the staff of the SEC has taken the position that broker-dealers may fulfill their prospectus delivery requirements with respect to transactions involving an exchange of securities such as this exchange offer, other than a resale of an unsold allotment from the original sale of the outstanding notes, with this prospectus. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of exchange notes received in exchange for outstanding notes where such outstanding notes were acquired as a result of market-making activities or other trading activities. We have agreed that, generally for a period of 180 days after the effectiveness of the registration statement for the exchange offer, we will make this prospectus, as amended or supplemented, available to any broker-dealer for use in connection with any such resale. In addition, until \_\_\_\_\_, 2011, all dealers effecting transactions in exchange notes may be required to deliver this prospectus.

Any broker-dealer or holder using the exchange offer to participate in a distribution of the securities to be acquired in the exchange offer (1) could not, under SEC staff policy, rely on the position of the SEC staff enunciated in Morgan Stanley and Co., Inc. (available June 5, 1991) and Exxon Capital Holdings Corporation (available May 13, 1988), as interpreted in the SEC staff's letter to Shearman & Sterling dated July 2, 1993, and similar no-action letters, and (2) must comply with the registration and prospectus delivery requirements of the Securities Act in connection with a secondary resale transaction and that such a secondary resale transaction should be covered by an effective registration statement containing the selling security holder information required by Item 507 or 508, as applicable, of Regulation

S-K.

If you wish to receive exchange notes for your outstanding notes in the exchange offer, you will be required to make representations to us as described in Exchange Offer Procedures for Tendering Your Representations to Us in this prospectus. As indicated in the letter of transmittal, you will be deemed to have made these representations by tendering your outstanding notes in the exchange offer. In addition, if you are a broker-dealer who receives exchange notes for your own account in exchange for outstanding notes that were acquired by you as a result of market-making activities or other trading activities, you will be required to acknowledge, in the same manner, that you will deliver this prospectus in connection with any resale by you of such exchange notes.

We will not receive any proceeds from any sale of exchange notes by broker-dealers. Exchange notes received by broker-dealers for their own account pursuant to the exchange offer may be sold from time to time in one or more transactions:

in the over-the-counter market;

in negotiated transactions;

through the writing of options on the exchange notes; or

a combination of such methods of resale;

at market prices prevailing at the time of resale, at prices related to such prevailing market prices or at negotiated prices.

Any such resale may be made directly to purchasers or to or through brokers or dealers who may receive compensation in the form of commissions or concessions from any such broker-dealer or the purchasers of any such exchange notes. Any broker-dealer that resells exchange notes that were received by it for its own account pursuant to the exchange offer and any broker or dealer that participates in a distribution of such exchange notes may be deemed to be an underwriter within the meaning of the Securities Act and any profit on such resale of exchange notes and any commissions or concessions received by any such persons may be deemed to be underwriting compensation under the Securities Act. Each letter of transmittal states that by acknowledging that it will deliver and by delivering this prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act.

For a period of 180 days after the effectiveness of the registration statement for the exchange offer, we will promptly send additional copies of this prospectus and any amendment or supplement to this prospectus to any broker-dealer that requests such documents. We have agreed to pay all reasonable expenses incident to the exchange offer (including the expenses of one counsel for the holders of the outstanding notes) other than commissions or concessions of any broker-dealers and will indemnify the holders of the outstanding notes (including any broker-dealers) against certain liabilities, including liabilities under the Securities Act.





## LEGAL MATTERS

Adams and Reese LLP has issued an opinion about the legality of the exchange notes.

## EXPERTS

The consolidated financial statements of the Company as of December 31, 2010 and 2009 and for the years then ended have been incorporated herein by reference in reliance upon the reports of MaloneBailey LLP, independent registered public accounting firm, incorporated herein by reference, and upon the authority of said firm as experts in accounting and auditing.

The letter reports of Collarini Associates, independent consulting petroleum engineers, and information with respect to our oil and gas reserves derived from such reports, have been incorporated by reference into this prospectus upon the authority of such firm as experts with respect to such matters covered in such reports and in giving such reports.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any documents we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. Our SEC filings are also available to the public at the SEC's Internet site at <http://www.sec.gov> and our website at <http://www.saratogaresources.net>. Information on our website or any other website is not incorporated by reference in this prospectus and does not constitute part of this prospectus.

This prospectus is part of a registration statement and, as permitted by SEC rules, does not contain all of the information included in the registration statement. Whenever a reference is made in this prospectus to any of our contracts or other documents, the reference may not be complete and, for a copy of the contract or document, you should refer to the exhibits that are part of or incorporated by reference into the registration statement.

The SEC allows us to incorporate by reference into this prospectus the information we file with it, which means that we can disclose important information to you by referring you to the documents containing such information. Information incorporated by reference is considered to be part of this prospectus. Any statement contained in this prospectus or a document incorporated by reference in this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other document subsequently filed with the SEC that is incorporated by reference in this prospectus modifies or supersedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We incorporate by reference the documents listed below and future filings we make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and until the exchange offer described in this prospectus is completed or is otherwise terminated, in each case excluding any information furnished but not filed, unless we specifically provide that such furnished information is to be incorporated by reference:

our annual report on Form 10-K for the year ended December 31, 2010;

our quarterly reports on Form 10-Q for the quarters ended March 31, 2011 and June 30, 2011; and

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our current reports on Form 8-K filed on March 15, 2011, April 27, 2011, April 28, 2011, May 2, 2011, May 3, 2011, May 9, 2011, May 20, 2011, June 24, 2011, July 11, 2011, July 15, 2011, July 20, 2011, August 11, 2011 and September 23, 2011.

We will provide a copy of any and all of the information that is incorporated by reference in this prospectus to any person, including a beneficial owner, to whom an prospectus is delivered, without charge, upon written or oral request. You may obtain a copy of these filings by writing or telephoning:

Saratoga Resources, Inc.

Attention: Investor Relations

7500 San Felipe, Suite 675

Houston, Texas 77063

(713) 458-1560

**LETTER OF TRANSMITTAL**

**To Tender**

**Outstanding 12.5% Senior Secured Notes due 2016**

**of**

**SARATOGA RESOURCES, INC.**

**Pursuant to the Exchange Offer and Prospectus dated \_\_\_\_\_, 2011**

*The Exchange Agent for the Exchange Offer is:*

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

c/o The Bank of New York Mellon Trust Corporation

Corporate Trust Operations Reorganization Unit

101 Barclay Street, Floor 7 East

New York, NY 10286

Attention: William Buckley

Facsimile Transmission

(212) 298-1915

Confirm by Telephone:

(212) 815-5788

IF YOU WISH TO EXCHANGE CURRENTLY OUTSTANDING 12.5% SENIOR SECURED NOTES DUE 2016 (THE OUTSTANDING NOTES ) FOR AN EQUAL AGGREGATE PRINCIPAL AMOUNT OF 12.5% SENIOR SECURED NOTES DUE 2016 PURSUANT TO THE EXCHANGE OFFER, YOU MUST VALIDLY TENDER (AND NOT WITHDRAW) OUTSTANDING NOTES TO THE EXCHANGE AGENT PRIOR TO 5:00 P.M. NEW YORK CITY TIME ON THE EXPIRATION DATE BY CAUSING AN AGENT'S MESSAGE TO BE RECEIVED BY THE EXCHANGE AGENT PRIOR TO SUCH TIME.

The undersigned hereby acknowledges receipt of the prospectus, dated \_\_\_\_\_, 2011 (the Prospectus ), of Saratoga Resources, Inc., a Texas corporation (the Company ), and this Letter of Transmittal (the Letter of Transmittal ), which together describe the Company's offer (the Exchange Offer ) to exchange its 12.5% Senior Secured Notes due 2016 (the Exchange Notes ) that have been registered under the Securities Act of 1933, as amended (the Securities Act ), for a like principal amount of its issued and outstanding 12.5% Senior Secured Notes due 2016 (the Outstanding Notes ). Capitalized terms used but not defined herein have the respective meaning given to them in the Prospectus.

The Company reserves the right, at any time or from time to time, to extend the Exchange Offer at its discretion, in which event the term *Expiration Date* shall mean the latest date to which the Exchange Offer is extended. To extend the Exchange Offer, the Company will notify the Exchange Agent orally or in writing of any extension. The Company will notify the holders of Outstanding Notes of the extension via a press release issued no later than 9:00 a.m. New York City time on the business day after the previously scheduled Expiration Date.

This Letter of Transmittal is to be used by holders of the Outstanding Notes. Tender of Outstanding Notes is to be made according to the Automated Tender Offer Program ( *ATOP* ) of The Depository Trust Company ( *DTC* ) pursuant to the procedures set forth in the Prospectus under the caption *The Exchange Offer Procedures for Tendering*. *DTC* participants that are accepting the Exchange Offer must transmit their acceptance to *DTC*, which will verify the acceptance and execute a book-entry delivery to the Exchange Agent's *DTC* account. *DTC* will then send a computer-generated message known as an *agent's message* to the exchange agent for its acceptance. For you to validly tender your Outstanding Notes in the Exchange Offer, the Exchange Agent must receive, prior to the Expiration Date, an *agent's message* under the *ATOP* procedures that confirms that:

*DTC* has received your instructions to tender your Outstanding Notes; and

You agree to be bound by the terms of this Letter of Transmittal.

**By using the *ATOP* procedures to tender Outstanding Notes, you will not be required to deliver this Letter of Transmittal to the Exchange Agent. However, you will be bound by its terms, and you will be deemed to have made the acknowledgments, the agreements and the representations and warranties it contains, just as if you had signed it.**

PLEASE READ THE ACCOMPANYING INSTRUCTIONS CAREFULLY.

Ladies and Gentlemen:

1. By tendering Outstanding Notes in the Exchange Offer, you acknowledge receipt of the Prospectus and this Letter of Transmittal.
2. By tendering Outstanding Notes in the Exchange Offer, you represent and warrant that you have full authority to tender the Outstanding Notes described above and agree to, upon request, execute and deliver any additional documents deemed by the Company to be necessary or desirable to complete the tender of Outstanding Notes.
3. The tender of the Outstanding Notes pursuant to all of the procedures set forth in the Prospectus will constitute an agreement between you and the Company as to the terms and conditions set forth in the Prospectus.
4. The Exchange Offer is being made in reliance upon interpretations contained in no-action letters issued to third parties by the staff of the Securities and Exchange Commission (the Commission), including Exxon Capital Holdings Corp., Commission No-Action Letter (available May 13, 1988), Morgan Stanley & Co., Inc., Commission No-Action Letter (available June 5, 1991) and Shearman & Sterling, Commission No-Action Letter (available July 2, 1993), that the Exchange Notes issued in exchange for the Outstanding Notes pursuant to the Exchange Offer may be offered for resale, resold and otherwise transferred by holders thereof (other than a broker-dealer who purchased Outstanding Notes exchanged for such Exchange Notes directly from the Company to resell pursuant to Rule 144A or any other available exemption under the Securities Act of 1933, as amended (the Securities Act) and any such holder that is an affiliate of the Company or of any of the subsidiary guarantors named in the Prospectus within the meaning of Rule 405 under the Securities Act), without compliance with the registration and prospectus delivery provisions of the Securities Act, provided that such Exchange Notes are acquired in the ordinary course of such holders' business and such holders are not participating in, and have no arrangement with any person to participate in, the distribution of such Exchange Notes.
5. By tendering Outstanding Notes in the Exchange Offer, you represent and warrant that:
  - a. the Exchange Notes acquired pursuant to the Exchange Offer are being obtained in the ordinary course of your business, whether or not you are the holder;
  - b. neither you nor any such other person is engaging in or intends to engage in a distribution of such Exchange Notes;
  - c. neither you nor any such other person has an arrangement or understanding with any person or entity to participate in the distribution of such Exchange Notes;
  - d. neither you nor any such other person is an affiliate, as such term is defined under Rule 405 promulgated under the Securities Act, of the Company, or of the subsidiary guarantors named in the Prospectus or, if you are an affiliate, that you will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable; and
  - e. if you are a broker-dealer that will receive Exchange Notes for your own account in exchange for Outstanding Notes, you acquired those Outstanding Notes as a result of market-making activities or other trading activities and you will deliver the Prospectus, as required by law, in connection with any resale of the Exchange Notes.

6. If you are a broker-dealer that will receive Exchange Notes for your own account in exchange for Outstanding Notes that were acquired as a result of market-making activities or other trading activities, you acknowledge, by tendering Outstanding Notes in the Exchange Offer, that you will deliver a prospectus in connection with any resale of such Exchange Notes; however, by so acknowledging and by delivering a prospectus, you will not be deemed to admit that you are an underwriter within the meaning of the Securities Act. If you are a broker-dealer and Outstanding Notes held for your own account were not acquired as a result of market-making or other trading activities, such Outstanding Notes cannot be exchanged pursuant to the Exchange Offer.

7. Any of your obligations hereunder shall be binding upon your successors, assigns, executors, administrators, trustees in bankruptcy and legal and personal representatives.

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INSTRUCTIONS

FORMING PART OF THE TERMS AND CONDITIONS OF THE EXCHANGE OFFER

**1. Book-Entry Confirmations.**

Any confirmation of a book-entry transfer to the Exchange Agent's account at DTC of Outstanding Notes tendered by book-entry transfer (a Book-Entry Confirmation), as well as an agent's message, and any other documents required by this Letter of Transmittal, must be received by the Exchange Agent at its address set forth herein prior to 5:00 P.M. New York City time on the Expiration Date.

**2. Partial Tenders.**

Tenders of Outstanding Notes will be accepted only in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The entire principal amount of Outstanding Notes delivered to the Exchange Agent will be deemed to have been tendered unless otherwise communicated to the Exchange Agent. If the entire principal amount of all Outstanding Notes is not tendered, then Outstanding Notes for the principal amount of Outstanding Notes not tendered and Exchange Notes issued in exchange for any Outstanding Notes accepted will be delivered to the holder via the facilities of DTC promptly after the Outstanding Notes are accepted for exchange.

**3. Validity of Tenders.**

All questions as to the validity, form, eligibility (including time of receipt), acceptance, and withdrawal of tendered Outstanding Notes will be determined by the Company, in its sole discretion, which determination will be final and binding. The Company reserves the absolute right to reject any or all tenders not in proper form or the acceptance for exchange of which may, in the opinion of counsel for the Company, be unlawful. The Company also reserves the absolute right to waive any of the conditions of the Exchange Offer or any defect or irregularity in the tender of any Outstanding Notes. The Company's interpretation of the terms and conditions of the Exchange Offer (including the instructions on this Letter of Transmittal) will be final and binding on all parties. Unless waived, any defects or irregularities in connection with tenders of Outstanding Notes must be cured within such time as the Company shall determine. Although the Company intends to notify holders of defects or irregularities with respect to tenders of Outstanding Notes, neither the Company, the Exchange Agent, nor any other person shall be under any duty to give notification of any defects or irregularities in tenders or incur any liability for failure to give such notification. Tenders of Outstanding Notes will not be deemed to have been made until such defects or irregularities have been cured or waived. Any Outstanding Notes received by the Exchange Agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned by the Exchange Agent to the tendering holders via the facilities of DTC, promptly following the Expiration Date.

**Until \_\_\_\_\_, 2011 all dealers that effect transactions in the exchange notes, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters with respect to their unsold allotments or subscriptions.**





**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 20. Indemnification of Directors and Officers.**

**Texas**

Saratoga Resources, Inc., Lobo Resources, Inc. and Lobo Operating, Inc. are each corporations organized under the laws of the State of Texas.

Our articles of incorporation, and the articles of incorporation of Lobo Resources, Inc. and Lobo Operating, Inc., contain a provision that limits the liability of directors as permitted by the Texas Business Organizations Code. The provision eliminates the personal liability of a director to the respective company and shareholders thereof for monetary damages for an act or omission in the director's capacity as a director. The provision does not change the liability of a director for breach of his duty of loyalty to us or to our shareholders, for an act or omission not in good faith that involves intentional misconduct or a knowing violation of law, for an act or omission for which the liability of a director is expressly provided for by an applicable statute, or in respect of any transaction from which a director received an improper personal benefit. Pursuant to the articles of incorporation, the liability of directors will be further limited or eliminated without action by shareholders if Texas law is amended to further limit or eliminate the personal liability of directors.

Our bylaws, and the bylaws of Lobo Resources, Inc. and Lobo Operating, Inc., provide for the indemnification of officers and directors, and the advancement to them of expenses in connection with proceedings and claims, to the fullest extent permitted by the Texas Business Organizations Code.

In addition, we have purchased directors' and officers' liability insurance policies for our directors and officers.

**Louisiana**

Harvest Oil & Gas, LLC and The Harvest Group LLC are each limited liability companies organized under the laws of the State of Louisiana.

Section 12:1315 of the Louisiana Business Corporation Law, or the LBCL, provides that the articles of organization or a written operating agreement of a limited liability company may eliminate or limit the personal liability of a member or members, if management is reserved to the members, or a manager or managers, if management is vested in one or more managers pursuant to Section 12:1312 of the LBCL, for monetary damages for breach of any duty provided for in Section 12:1314 of the LBCL or provide for indemnification of a member or members, or a manager or managers, for judgments, settlements, penalties, fines, or expenses incurred because he is or was a member or manager. No provision of LBCL shall limit or eliminate the liability of a member or manager for the amount of a financial benefit received by a member or manager to which he is not entitled or for an intentional violation of a criminal law.

The Amended and Restated Operating Agreements of Harvest Oil & Gas, LLC and The Harvest Group LLC each provide that the company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the company), by reason of the fact that he is or was a member of the company, an operating manager, an officer, employee or agent of the company, or is or was serving at the request of the company, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if the members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the company, and with respect to any criminal action or proceeding, had no reasonable cause to believe his

conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent, will not in itself create a presumption that the person did or did not act in good faith and interest of the company and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

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**Item 21. Exhibits and Financial Statement Schedules.**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>
3.1	Restated Articles of Incorporation of Saratoga Resources, Inc., dated May 14, 2010 (incorporated herein by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2010).
3.2	Amended and Restated Bylaws of Saratoga Resources, Inc., dated May 16, 2011 (incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on May 20, 2011).
4.1	Indenture, dated July 12, 2011, among Saratoga Resources, Inc., the subsidiaries named therein and The Bank of New York Mellon Trust Company, N.A., as trustee (incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on July 15, 2011).
4.2	Registration Rights Agreement, dated July 12, 2011, among Saratoga Resources, Inc., the Guarantors named therein and Imperial Capital, LLC (incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on July 15, 2011).
5.1*	Opinion of Adams and Reese LLP
23.1*	Consent of MaloneBailey LLP
23.2*	Consent of Collarini Associates
23.3*	Consent of Adams and Reese LLP (included in Exhibit 5.1)
24.1*	

Powers of Attorney (included on signature pages)

25.1\*

Form T-1 Statement of Eligibility of Trustee with respect to the Indenture.

Incorporated by reference as indicated.

\* Filed herewith.

**Item 22. Undertakings**

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

- (i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
- (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that paragraphs (i), (ii) and (iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the Registrant pursuant to Section 13

or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

- (i) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
- (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

(6) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(7) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the SEC under Section 305(b)(2) of the Trust Indenture Act.

(8) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of

expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the claim has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(9) The Registrant hereby undertakes to respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11, or 13 of Form S-4, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(10) The Registrant hereby undertakes to supply by means of a post-effective amendment all information concerning a transaction that was not the subject of and included in the registration statement when it became effective.



**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each of the registrants certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-4 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on September 23, 2011.

**SARATOGA RESOURCES, INC.**

By: /s/ Thomas F. Cooke  
Thomas F. Cooke  
Chairman and Chief Executive Officer

Each person whose signature appears below appoints Thomas F. Cooke, Andrew C. Clifford and Edward J. Hebert and each of them, each of whom may act without the joinder of the others, as his true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys in fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on September 23, 2011.

<b>SIGNATURE</b>	<b>TITLE</b>
/s/ Thomas F. Cooke Thomas F. Cooke	Chairman, Chief Executive Officer and Director (Principal Executive Officer)
/s/ Andrew C. Clifford Andrew C. Clifford	President and Director
/s/ Edward J. Hebert Edward J. Hebert	Vice President Finance and Chief Accounting Officer (Principal Accounting Officer)
/s/ John W. Rhea, IV John W. Rhea, IV	Director
/s/ Rex H. White, Jr. Rex H. White, Jr.	Director

/s/ Kevin Smith  
Kevin Smith

Director

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each of the registrants certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-4 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on September 23, 2011.

LOBO RESOURCES, INC.

By:

/s/ Thomas F. Cooke  
Thomas F. Cooke  
Chairman and Chief Executive Officer

Each person whose signature appears below appoints Thomas F. Cooke, Andrew C. Clifford and Edward J. Hebert and each of them, each of whom may act without the joinder of the others, as his true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys in fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on September 23, 2011.

**SIGNATURE**

/s/ Thomas F. Cooke  
Thomas F. Cooke

**TITLE**

President and Director  
  
(Principal Executive Officer and Principal  
Accounting Officer)

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each of the registrants certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-4 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on September 23, 2011.

LOBO OPERATING, INC.

By: /s/ Thomas F. Cooke  
Thomas F. Cooke  
Chairman and Chief Executive Officer

Each person whose signature appears below appoints Thomas F. Cooke, Andrew C. Clifford and Edward J. Hebert and each of them, each of whom may act without the joinder of the others, as his true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys in fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on September 23, 2011.

**SIGNATURE**

/s/ Thomas F. Cooke  
Thomas F. Cooke

**TITLE**

President and Director  
  
(Principal Executive Officer and Principal  
Accounting Officer)



**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each of the registrants certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-4 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on September 23, 2011.

HARVEST OIL & GAS, LLC

By: /s/ Thomas F. Cooke  
Thomas F. Cooke  
Operating Manager

Each person whose signature appears below appoints Thomas F. Cooke, Andrew C. Clifford and Edward J. Hebert and each of them, each of whom may act without the joinder of the others, as his true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys in fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on September 23, 2011.

**SIGNATURE**

/s/ Thomas F. Cooke  
Thomas F. Cooke

**TITLE**

Operating Manager  
  
(Principal Executive Officer and Principal Accounting Officer)

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, each of the registrants certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-4 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, the State of Texas, on September 23, 2011.

**THE HARVEST GROUP LLC**

By: /s/ Thomas F. Cooke  
Thomas F. Cooke  
Operating Manager

Each person whose signature appears below appoints Thomas F. Cooke, Andrew C. Clifford and Edward J. Hebert and each of them, each of whom may act without the joinder of the others, as his true and lawful attorneys in fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys in fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys in fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on September 23, 2011.

**SIGNATURE**

/s/ Thomas F. Cooke  
Thomas F. Cooke

**TITLE**

Operating Manager  
  
(Principal Executive Officer and Principal  
Accounting Officer)