

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 14, 2020 (August 11, 2020)



Helix Energy Solutions Group, Inc.

(Exact name of registrant as specified in its charter)

Minnesota
(State or other jurisdiction
of incorporation)

001-32936
(Commission File Number)

95-3409686
(IRS Employer Identification No.)

3505 West Sam Houston Parkway North, Suite 400
Houston, Texas
(Address of principal executive offices)

77043
(Zip Code)

281-618-0400
(Registrant's telephone number,
including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	HLX	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

Underwriting Agreement

On August 14, 2020, Helix Energy Solutions Group, Inc. (the “Company”) closed the sale of \$200 million aggregate principal amount of its 6.75% Convertible Senior Notes due 2026 (the “Notes”), pursuant to an underwriting agreement (the “Underwriting Agreement”) entered into on August 11, 2020, by and among the Company and Wells Fargo Securities, LLC and Evercore Group L.L.C., as representatives of the several underwriters named therein (the “Underwriters”). The issuance and sale of the Notes (the “Offering”) was registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to the Company’s shelf registration statement on Form S-3ASR (Registration No. 333-234325), and was made pursuant to a prospectus supplement, dated August 11, 2020, a pricing term sheet filed as a free writing prospectus on August 12, 2020, and a base prospectus, dated October 25, 2019, filed with the Securities and Exchange Commission (“SEC”) pursuant to Rule 424(b) of the Securities Act.

The Company received net proceeds from the Offering of approximately \$192.5 million, after deducting the underwriting discounts and commissions and estimated offering expenses payable by the Company. In connection with the pricing of the Notes, the Company entered into privately negotiated capped call transactions (the “Capped Call Transactions”) with affiliates of two of the Underwriters and one other financial institution (the “Option Counterparties”), as further discussed below. The Company used approximately \$10.5 million of the net proceeds from the Offering to fund the cost of entering into the Capped Call Transactions. The Company used approximately \$183 million (or approximately \$186 million with accrued interest), consisting of the remainder of the net proceeds from the Offering, together with cash on hand, to repurchase approximately \$90 million aggregate principal amount of its outstanding 4.25% Convertible Senior Notes due 2022 and approximately \$95 million aggregate principal amount of its outstanding 4.125% Convertible Senior Notes due 2023 in privately negotiated transactions effected through one of the Underwriters or its affiliate, as the Company’s agent, effected concurrently with the Offering.

The Underwriting Agreement contains customary indemnification and contribution provisions whereby the Company, on the one hand, and the Underwriters, on the other hand, have agreed to indemnify each other against certain liabilities, including liabilities under the Securities Act. As more fully described in the prospectus supplement, certain of the Underwriters and/or their respective affiliates have from time to time performed, and may in the future perform, various investment banking, commercial banking and other financial services to the Company and its affiliates, in the ordinary course of business for which they have received and would receive customary compensation.

The foregoing description of the Underwriting Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Underwriting Agreement, a copy of which is filed as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Indenture

The Notes were issued pursuant to an Indenture, dated as of August 14, 2020 (the “Base Indenture”), as supplemented by the First Supplemental Indenture, dated as of August 14, 2020 (the “First Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), in each case, between the Company, as issuer, and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”). The Notes bear interest at a rate of 6.75% per annum, payable semi-annually in arrears on February 15 and August 15 of each year, beginning on February 15, 2021. The Notes will mature on February 15, 2026, unless earlier converted, redeemed or repurchased by the Company. During certain periods and subject to certain conditions (as described in the Indenture) the Notes will be convertible by the holders into shares of the Company’s common stock at an initial conversion rate of 143.3795 shares of common stock per \$1,000 principal amount of Notes (which represents an initial conversion price of approximately \$6.97 per share of common stock), subject to adjustment in certain circumstances as set forth in the Indenture. The initial conversion price represents a conversion premium of approximately 45% over the closing price of the Company’s common stock on August 11, 2020 of \$4.81 per share. Upon conversion, holders will receive, at the Company’s discretion, cash, shares of the Company’s common stock or a combination thereof. Holders that surrender Notes for conversion in connection with a “make-whole fundamental change,” as defined in the Indenture, may in certain circumstances be entitled to an increased conversion rate.

Prior to August 15, 2023, the Notes will not be redeemable. On or after August 15, 2023 (but, in the case of a partial redemption, no later than the 40th scheduled trading day immediately before the maturity date of the Notes), the Company may, at its option, redeem all or any portion of the Notes, subject to certain conditions, at a redemption price payable in cash equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest, and a “make-whole premium” with a value equal to the present value of the remaining scheduled payments of interest on the Notes to be redeemed up to and including February 15, 2026, as further described in the Indenture. Holders may require the Company to repurchase the Notes following a “fundamental change,” as defined in the Indenture.

The Indenture contains customary terms and covenants, including that upon certain events of default occurring and continuing, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Notes then outstanding may declare the entire principal amount of all the Notes, and the interest accrued on such Notes, if any, to be immediately due and payable. In the case of certain events of bankruptcy, insolvency or reorganization relating to the Company or a significant subsidiary, the principal amount of the Notes together with any accrued and unpaid interest thereon will automatically be and become immediately due and payable.

The Notes will be the Company’s general senior unsecured obligations and will rank equally in right of payment with all of its existing and future senior unsecured indebtedness. The Notes will be effectively subordinated to all of the Company’s existing and future secured indebtedness to the extent of the value of the assets securing such indebtedness or other obligations and structurally subordinated to all existing and future liabilities of the Company’s subsidiaries, including trade payables.

The foregoing description of the Indenture and the Notes does not purport to be complete and is qualified in its entirety by reference to the full text of the Base Indenture, the First Supplemental Indenture and the form of Note, copies of which are filed as Exhibits 4.1, 4.2 and 4.3, respectively, to this Current Report on Form 8-K, and are incorporated herein by reference.

Capped Call Transactions

On August 11, 2020, in connection with the pricing of the Notes, the Company entered into the Capped Call Transactions with the Option Counterparties. The Capped Call Transactions cover, subject to customary adjustments, the number of shares of common stock initially underlying the Notes. The Capped Call Transactions are expected generally to reduce potential dilution to the Company’s common stock upon conversion of any Notes and/or offset any potential cash payments the Company is required to make in excess of the principal amount of converted Notes, as the case may be, with such reduction and/or offset subject to the cap price. The cap price of the Capped Call Transactions will initially be \$8.4175 per share of the Company’s common stock, which represents a premium of 75% over the closing price of the Company’s common stock on the New York Stock Exchange of \$4.81 per share on August 11, 2020, and is subject to certain adjustments under the terms of the Capped Call Transactions.

In connection with establishing their initial hedges of the Capped Call Transactions, the Company has been advised that the Option Counterparties or their respective affiliates entered into various cash-settled over-the-counter derivative transactions with respect to the Company's common stock concurrently with or shortly after the pricing of the Notes. The Company has been advised that the Option Counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to the Company's common stock and/or purchasing or selling the Company's common stock or other securities of the Company in secondary market transactions following the pricing of the Notes and from time to time prior to the maturity of the Notes (and are likely to do so on each exercise date of the capped call transactions, which are expected to occur during the observation period prior to the maturity date of the Notes (the 40 trading day period beginning on the 41st scheduled trading day prior to the maturity date of the Notes), or following any termination of any portion of the Capped Call Transactions in connection with any repurchase, redemption or conversion of the Notes if the Company makes the relevant election under the Capped Call Transactions). This activity could also cause or avoid an increase or a decrease in the market price of the Company's common stock or the Notes.

The Capped Call Transactions are separate transactions entered into by the Company with the Option Counterparties, are not part of the terms of the Notes and will not change the holders' rights under the Notes. Holders will not have any rights with respect to the Capped Call Transactions.

The foregoing description of the Capped Call Transactions does not purport to be complete and is qualified in its entirety by reference to the full text of the form of confirmation for the Capped Call Transactions, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Statements in this Current Report, including but not limited to those relating to the Notes, the Indenture, the Capped Call Transactions and other statements that are not historical facts, are forward-looking statements that are based on current expectations. Although the Company believes that its expectations are based on reasonable assumptions, it can give no assurance that these expectations will prove correct. Important factors that could cause actual results to differ materially from those in the forward-looking statements include the actions of the holders, the Option Counterparties or their respective affiliates, market conditions and other risks described in the prospectus relating to the Offering and the Company's Form 10-K for the year ended December 31, 2019 and its other filings with the SEC.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth in Item 1.01 above with respect to the Indenture and the Notes is hereby incorporated by reference into this Item 2.03 insofar as it relates to the creation of a direct financial obligation.

(d) Exhibits

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of August 11, 2020, by and among Helix Energy Solutions Group, Inc., Wells Fargo Securities, LLC and Evercore Group L.L.C.
4.1	Indenture, dated as of August 14, 2020, by and between Helix Energy Solutions Group, Inc. and The Bank of New York Mellon Trust Company, N.A., as trustee.
4.2	First Supplemental Indenture, dated as of August 14, 2020, by and between Helix Energy Solutions Group, Inc. and The Bank of New York Mellon Trust Company, N.A., as trustee.
4.3	Form of 6.75% Convertible Senior Note (included in Exhibit 4.2).
5.1	Opinion of Baker Botts L.L.P.
5.2	Opinion of Maslon LLP.
10.1	Form of Capped Call Transaction Confirmation.
23.1	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).
23.2	Consent of Maslon LLP (included in Exhibit 5.2).
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURE

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

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Erik Staffeldt
Executive Vice President and Chief Financial Officer

Date: August 14, 2020

\$200,000,000

HELIX ENERGY SOLUTIONS GROUP, INC.

UNDERWRITING AGREEMENT

6.75% Convertible Senior Notes due 2026

August 11, 2020

Wells Fargo Securities, LLC
Evercore Group L.L.C.
As Representatives of the
several Underwriters listed
in Schedule I hereto

Wells Fargo Securities, LLC
500 West 33rd Street, 14th Floor
New York, New York 10001

Evercore Group L.L.C.
55 East 52nd Street
New York, NY 10055

Ladies and Gentlemen:

Helix Energy Solutions Group, Inc., a Minnesota corporation (the "Company"), proposes to issue and sell to the underwriters named in Schedule I hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), \$200,000,000 aggregate principal amount of its 6.75% Convertible Senior Notes due 2026 (the "Notes"). The Notes shall be convertible into shares of common stock, no par value, of the Company (the "Common Stock"), cash, or a combination of shares of Common Stock and cash, at the Company's election, based on an initial conversion rate of 143.3795 shares of Common Stock per \$1,000 principal amount of Notes, as described in the Prospectus, defined below. The shares of Common Stock issuable, if any, upon conversion of the Notes are referred to herein as the "Conversion Shares." The Notes and the Conversion Shares hereinafter are referred to collectively as the "Securities." The Notes will be issued under an indenture (the "Base Indenture"), to be dated as of August 14, 2020, between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as supplemented by the First Supplemental Indenture thereto, to be dated as of August 14, 2020 (the "First Supplemental Indenture" and, together with the Base Indenture, the "Indenture"). The Notes are described more fully in the Prospectus.

In connection with the offering of the Notes, the Company and certain financial institutions, which may include one or more of the Underwriters and/or their affiliates and/or other financial institutions (the "Capped Call Counterparties"), are separately entering into privately negotiated capped call options transactions pursuant to capped call option confirmations dated as of the date hereof (the "Capped Call Confirmations").

The Company hereby confirms its agreement with the Representatives concerning the purchase and sale of the Notes as follows:

1. Representations and Warranties. The Company represents and warrants to, and agrees with, the several Underwriters that:

(a) Registration Statement. The Company has prepared and filed with the Securities and Exchange Commission (the “Commission”) a registration statement on Form S-3 (File No. 333-234325), which contains a base prospectus (the “Base Prospectus”), to be used in connection with the public offering and sale of the Notes. Such registration statement, as amended, including the financial statements, exhibits and schedules thereto, and including any required information deemed to be a part thereof pursuant to Rule 430A, 430B or 430C under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “Securities Act”) and the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “Exchange Act”), at each time of effectiveness, is called the “Registration Statement.” Any preliminary prospectus supplement to the Base Prospectus that describes the Notes and the offering thereof and is used prior to the filing of the Prospectus is called, together with the Base Prospectus, a “Preliminary Prospectus.” The term “Prospectus” shall mean the final prospectus supplement relating to the Notes, together with the Base Prospectus, that is first filed pursuant to Rule 424(b) (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) after the date and time that this agreement (the “Agreement”) is executed and delivered by the parties hereto (the “Execution Time”). Any reference herein to the Registration Statement, any Preliminary Prospectus or the Prospectus, as the case may be, shall be deemed to refer to and include any documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act, as of the effective date of the Registration Statement, or the date of such Preliminary Prospectus or the Prospectus, as the case may be, and any reference to “amend,” “amendment” or “supplement” with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus, as the case may be, shall be deemed to refer to and include any documents filed after such date under the Exchange Act that are deemed to be incorporated by reference therein. All references in this Agreement to the Registration Statement, any Preliminary Prospectus, the Prospectus, or any amendments or supplements to any of the foregoing shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System (“EDGAR”) (except as may be permitted by Regulation S-T under the Securities Act).

(b) Disclosure Package. The term “Disclosure Package” shall mean (A) any Preliminary Prospectus, as it may be amended or supplemented, (B) the Base Prospectus, (C) the applicable issuer free writing prospectuses as defined under Rule 433 of the Securities Act, if any, identified in Schedule II hereto (each, an “Issuer Free Writing Prospectus”); (D) any other free writing prospectus that the parties hereto shall hereafter expressly agree in writing to treat as part of the Disclosure Package, and (E) the Final Term Sheet (as defined herein), which also shall be identified in Schedule II hereto. The Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any “written communication” (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Notes, other than a communication referred to in clauses (A), (B), (C), (D) and (E) above. As of 11:50 p.m. (Eastern time) on the date of this Agreement (the “Initial Sale Time”), and as of the Closing Date (as hereinafter defined), the Disclosure Package did not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. As of each time of broadcast, and as of the Closing Date, each electronic road show, when taken together as a whole with the Disclosure Package, did not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding two sentences do not apply to statements in or omissions from the Disclosure Package or each electronic road show based upon and in conformity with written information relating to any Underwriter furnished to the Company by or on behalf of any Underwriter specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter consists of the information described as such in Section 6(b) hereof (the “Underwriter Information”).

(c) Registration Statement, Prospectus and Incorporated Documents. As of the date hereof, when the Prospectus is first filed with the Commission pursuant to Rule 424(b) under the Securities Act, when any supplement or amendment to the Prospectus is filed with the Commission, at the Closing Date and, with respect to the Registration Statement in (A) and (B) below, as of the Initial Sale Time, (A) the Registration Statement is effective, the Registration Statement, as amended as of any such time, and the Prospectus, as amended or supplemented as of any such time, and the Indenture complied, complies or will comply in all material respects with the applicable provisions under the Securities Act, the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder (the "Trust Indenture Act"), and the Exchange Act, (B) the Registration Statement, as amended as of any such time, did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and (C) the Prospectus, as amended or supplemented as of any such time, did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to (i) that part of the Registration Statement which shall constitute the Statement of Eligibility and Qualification of the Trustee (Form T-1) under the Trust Indenture Act of the Trustee, (ii) the Underwriter Information, or (iii) any statement that does not constitute part of the Registration Statement or the Prospectus pursuant to Rule 412 under the Securities Act. The documents that are incorporated by reference in the Registration Statement, the Disclosure Package, any Preliminary Prospectus or the Prospectus or from which information is so incorporated by reference, when they were filed with the Commission, complied in all material respects with the requirements under the Securities Act or the Exchange Act, as applicable, and did not, when such documents were so filed, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Commission has not issued any order suspending the effectiveness of the Registration Statement or any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus, and the Company is without knowledge that any proceedings have been instituted for either purpose or pursuant to Section 8A of the Securities Act.

(d) Not An Ineligible Issuer. (A) At the earliest time after the Company or another offering participant made a bona fide offer (within the meaning under Rule 164(h)(2) under the Securities Act) and (B) as of the date of the execution and delivery of this Agreement (with such date being used as a determination date for purposes of this clause (B)), the Company neither was nor is an Ineligible Issuer (as defined in Rule 405 under the Securities Act).

(e) Issuer Free Writing Prospectus. No Issuer Free Writing Prospectus (including the Final Term Sheet), as of its issue date and at all subsequent times through the completion of the offering contemplated hereby or until any earlier date that the Company notified or notifies the Representatives as described in the next sentence, included, includes or will include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, including any document incorporated by reference therein, any Preliminary Prospectus or the Prospectus, that had not or has not been superseded or modified. If at any time following delivery of an Issuer Free Writing Prospectus and prior to the end of the Prospectus Delivery Period (as defined below), there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement, any Preliminary Prospectus or the Prospectus, or as a result of which such Issuer Free Writing Prospectus, if republished immediately following such event or development, would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Company has promptly notified or will promptly notify the Representatives and has promptly amended or supplemented or will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict. The foregoing two sentences do not apply to statements in or omissions from an Issuer Free Writing Prospectus based upon and in conformity with Underwriter Information. Each Issuer Free Writing Prospectus complied in all material respects with the Securities Act and has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby). The Company has not distributed and will not distribute, prior to the later of the Closing Date and the completion of the Underwriters' distribution of the Notes, any offering material in connection with the offering and sale of the Notes other than the Registration Statement, any Preliminary Prospectus, the Prospectus, or any Issuer Free Writing Prospectus reviewed and consented to by the Representatives and included in Schedule II hereto.

(f) Well Known Seasoned Issuer. (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) under the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) under the Exchange Act or form of prospectus), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, under Rule 163(c) under the Securities Act) made any offer relating to the Notes in reliance on the exemption under Rule 163 under the Securities Act, and (D) at the Execution Time (with such time being used as the determination time for purposes of this clause (D)), the Company was and is a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act. The Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405 under the Securities Act, the Company has not received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form and the Company has not otherwise ceased to be eligible to use the automatic shelf registration statement form.

(g) Indenture. The Indenture has been duly authorized by the Company and, on the Closing Date, will have been (i) duly qualified under the Trust Indenture Act and (ii) duly executed and delivered by the Company and, assuming due authorization, execution and delivery thereof by the Trustee, will constitute a legal, valid, and binding instrument of the Company enforceable against the Company in accordance with its terms, except as may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies. The Indenture conforms in all material respects to the description thereof contained in the Registration Statement, the Disclosure Package and the Prospectus.

(h) Notes. The Notes have been duly and validly authorized for issuance and sale by the Company, and, when issued and delivered to the Underwriters against payment therefor pursuant to this Agreement and authenticated in accordance with the provisions of the Indenture, will be entitled to the benefits of the Indenture, will be duly and validly issued and outstanding and will be valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies. The delivery of the Notes being sold by the Company against payment therefor pursuant to the terms of this Agreement will pass valid title to the Notes being sold by the Company, free and clear of any claim, encumbrance or defect in title, and without notice of any lien, claim or encumbrance, other than any liens, encumbrances, claims or defects in title created by the Underwriters or as a result of any action or status of the noteholder. The Notes conform in all material respects to the description thereof contained in the Registration Statement, the Disclosure Package and the Prospectus.

(i) Conversion Shares. The Conversion Shares have been duly and validly authorized and reserved for issuance by the Company, and, when issued upon conversion of the Notes in accordance with the terms of the Notes and the Indenture, will be fully paid and nonassessable, and the issuance of the Conversion Shares will not be subject to any preemptive rights, rights of first refusal or other similar rights to subscribe or purchase securities of the Company or any subsidiary of the Company. The Conversion Shares conform in all material respects to the description thereof contained in the Registration Statement, the Disclosure Package and the Prospectus. At the Closing Date, the Company will have duly reserved for issuance upon conversion of the Notes a number of Conversion Shares (such number of Conversion Shares, the “Maximum Number of Conversion Shares”) sufficient to settle the conversion of all Notes to be sold hereunder at the initial “Conversion Rate” (as defined in the Indenture) plus the maximum number of “make-whole” shares per \$1,000 principal amount of Notes set forth in the Indenture, assuming all the Notes sold hereunder were converted by a single person pursuant to “Physical Settlement” (as defined in the Indenture).

(j) Capped Call Confirmations. The Capped Call Confirmations have been duly and validly authorized by the Company. When executed and delivered by the Company and the Capped Call Counterparties party thereto, the Capped Call Confirmations will be valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting the rights of creditors now or hereafter in effect, and to equitable principles that may limit the right to specific enforcement of remedies. All actions required to be taken by the Company for the consummation by the Company of the transactions contemplated by the Capped Call Confirmations will have been duly and validly taken by it by the Closing Date.

(k) Independent Accountants. The accountants whose reports appear in the Registration Statement, the Disclosure Package and the Prospectus or are incorporated by reference therein, are, and during the periods covered by such reports were, registered independent public accountants as required by the Securities Act, the Exchange Act and the Public Company Accounting Oversight Board.

(l) Financial Statements. The financial statements of the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus, together with the related schedules (if any) and notes, present fairly, in all material respects, the financial position of the entities to which they relate at the dates indicated and the results of operations, changes in stockholders’ equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; the financial statements of any other entities or businesses included or incorporated by reference in the Registration Statement, the Disclosure Package or the Prospectus, together with the related schedules (if any) and notes, present fairly, in all material respects, the financial position of each such entity or business, as the case may be, and its consolidated subsidiaries (if any) at the dates indicated and the results of operations, changes in stockholders’ (or other owners’) equity and cash flows of such entity or business, as the case may be, and its consolidated subsidiaries (if any) for the periods specified; and all such financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods involved and comply in all material respects with all applicable accounting requirements under the Securities Act. The supporting schedules, if any, included or incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus present fairly in all material respects, in accordance with GAAP, the information required to be stated therein. The financial statements of the businesses or properties acquired or proposed to be acquired, if any, included, or incorporated by reference, in the Registration Statement, the Disclosure Package and the Prospectus present fairly in all material respects the information set forth therein, have been prepared in conformity with GAAP applied on a consistent basis and otherwise have been prepared in accordance with, in the case of businesses acquired or to be acquired, the applicable financial statement requirements of Rule 3-05 or, in the case of real estate operations acquired or to be acquired, Rule 3-14 of Regulation S-X. The summary financial data and selected financial data included, or incorporated by reference, in the Registration Statement, the Disclosure Package and the Prospectus present fairly the information shown therein and has been compiled on a basis consistent with that of the audited financial statements of the Company included, or incorporated by reference, in the Registration Statement, the Disclosure Package and the Prospectus. Any information contained in the Registration Statement, the Disclosure Package or the Prospectus regarding “non-GAAP financial measures” (as defined in Regulation G of the Commission) complies with Regulation G and Item 10 of Regulation S-K of the Commission, to the extent applicable. No other financial statements or schedules are required by Form S-3 or otherwise to be included, or incorporated by reference, in the Registration Statement, the Disclosure Package or the Prospectus. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus fairly presents the required information and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(l) No Material Adverse Change in Business. Since the respective dates as of which information is given in the Registration Statement, the Disclosure Package and the Prospectus (in each case exclusive of any amendments or supplements thereto subsequent to the date of this Agreement), except as otherwise stated, or incorporated by reference, therein, (i) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (ii) there have been no transactions entered into by the Company or any of its subsidiaries, other than those that are in the ordinary course, which are material with respect to the Company and its subsidiaries considered as one enterprise, (iii) there has been no obligation or liability, direct or contingent (including any off-balance sheet obligations) incurred by the Company or its subsidiaries, which is material to the Company and its subsidiaries considered as one enterprise, (iv) other than the issuance of Securities issued pursuant to the Equity Plans (as defined herein) or the forfeitures of Securities upon a vesting or exercise of any Awards (as defined herein) issued pursuant to the Equity Plans in full or partial payment of taxes or tax withholding obligations, there have been no changes in the authorized or outstanding capital stock of the Company or its subsidiaries, (v) there have been no material changes in the outstanding indebtedness of the Company, and (vi) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(m) Good Standing of the Company. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Minnesota and has power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in the State of Texas and in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except (solely in the case of jurisdictions other than the State of Texas) where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(n) Good Standing of Subsidiaries. Each Material Subsidiary of the Company identified as such on Schedule IV has been duly organized and is validly existing as a corporation, limited or general partnership or limited liability company, as the case may be, in good standing under the laws of the jurisdiction of its organization, has power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Disclosure Package and the Prospectus and is duly qualified as a foreign corporation, limited or general partnership or limited liability company, as the case may be, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect; except as otherwise disclosed in the Registration Statement, the Disclosure Package and the Prospectus, all of the issued and outstanding capital stock of each such subsidiary that is a corporation, all of the issued and outstanding partnership interests of each such subsidiary that is a limited or general partnership and all of the issued and outstanding limited liability company interests, membership interests or other similar interests of each such subsidiary that is a limited liability company have been duly authorized and validly issued, are fully paid and (except in the case of general partnership interests) non-assessable and are owned by the Company, directly or through subsidiaries, free and clear of any Lien; and none of the outstanding shares of capital stock, partnership interests or limited liability company interests, membership interests or other similar interests of any such subsidiary was issued in violation of any preemptive rights, rights of first refusal or other similar rights of any securityholder of such subsidiary or any other person. The only subsidiaries of the Company are the subsidiaries listed on Schedule V hereto and Schedule V accurately sets forth whether each such subsidiary is a corporation, limited or general partnership or limited liability company and the jurisdiction of organization of each such subsidiary. The Company has identified its Material Subsidiaries on Schedule IV.

(o) Capitalization. The Company has an authorized capitalization as set forth in the Registration Statement, the Disclosure Package and the Prospectus, and all of the issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued, are fully paid and non-assessable. None of the Company's outstanding shares of Common Stock were issued in violation of any preemptive rights, rights of first refusal or other similar rights and no further approval or authority of the Company's stockholders or the Company's Board of Directors is required for the issuance and sale of the Securities; except as set forth in the Registration Statement, the Disclosure Package and the Prospectus, the Company is not a party to or bound by any outstanding options, warrants or similar rights to subscribe for, or contractual obligations to issue, sell, transfer or acquire, any of its capital stock or any securities convertible into or exchangeable for any of such capital stock.

(p) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company.

(q) Absence of Defaults and Conflicts. Neither the Company nor any of its subsidiaries is in violation of its organizational and governing documents (the "Organizational Documents") or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its Material Subsidiaries is a party or by which the Company or any of its Material Subsidiaries is bound or to which any of the property or assets of the Company or any of its Material Subsidiaries is subject (collectively, the "Company Documents"), except in the case of Company Documents for such defaults that would not result in a Material Adverse Effect. The execution, delivery and performance of this Agreement, the Indenture, the Notes and the Capped Call Confirmations and the consummation of the transactions contemplated herein, therein and in the Registration Statement, the Disclosure Package and the Prospectus (including the issuance and sale of the Notes, the conversion thereof in accordance with the terms of the Indenture and the use of the proceeds from the sale of the Notes as described in the Prospectus under the caption "Use of Proceeds") and compliance by the Company with its obligations under this Agreement, the Indenture, the Notes and the Capped Call Confirmations do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or repayment event under, or result in the creation or imposition of any lien upon any property or assets of the Company or any of its subsidiaries pursuant to, any Company Documents, except for such conflicts, breaches, defaults or liens, encumbrances, equities or claims ("Liens") that would not result in a Material Adverse Effect, nor will such action result in any violation of (i) the provisions of the Organizational Documents of the Company or any of its subsidiaries or (ii) any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their respective assets, properties or operations, except for such violations in clause (ii) that would not result in a Material Adverse Effect.

(r) Absence of Labor Dispute. No labor disputes with the employees of the Company or any subsidiary of the Company exist or, to the knowledge of the Company, are threatened or imminent that are reasonably expected, individually or in the aggregate, to have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company or any of the subsidiaries plans to terminate employment with the Company or any of the subsidiaries that are reasonably expected, individually or in the aggregate, to have a Material Adverse Effect. Neither the Company nor any of its subsidiaries has engaged in any unfair labor practice, except for matters which would not, individually or in the aggregate, result in a Material Adverse Effect.

(s) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries which is required to be disclosed in the Registration Statement, the Disclosure Package or the Prospectus (other than as disclosed therein), or which would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the properties or assets thereof or the consummation of the transactions contemplated in this Agreement and the Capped Call Confirmations, or the performance by the Company of its obligations under this Agreement or the Capped Call Confirmations; the aggregate of all pending legal or governmental proceedings to which the Company or any of its subsidiaries is a party or of which any of their respective property or assets is the subject which are not described in the Registration Statement, the Disclosure Package and the Prospectus, including ordinary routine litigation incidental to the business, could not reasonably be expected to result in a Material Adverse Effect.

(t) Accuracy of Descriptions and Exhibits. There are no franchises, contracts, indentures, mortgages, deeds of trust, loan or credit agreements, bonds, notes, debentures, evidences of indebtedness, leases or other instruments, agreements or documents required by the Securities Act to be described or referred to in the Registration Statement, the Disclosure Package or the Prospectus or to be filed as an exhibit to any document incorporated by reference therein which have not been so described and filed as required. Each description of a document, contract, permit or instrument in the Registration Statement, the Disclosure Package or the Prospectus accurately reflects in all material respects the terms of the underlying document, contract, permit or instrument.

(u) Statements. The statements set forth in the Prospectus under the captions "Description of Notes," "Description of Our Debt Securities" and "Description of Capital Stock," insofar as they purport to constitute summaries of the terms of the Securities, and under the caption "Material U.S. Federal Income Tax Considerations," insofar as they purport to describe the provisions of the laws referred to therein, are accurate, complete and fair. The statements set forth in the Prospectus under the caption "Description of Capped Call Transactions" insofar as they purport to constitute a summary of the terms of the Capped Call Confirmations are accurate and fair.

(v) Possession of Intellectual Property. The Company and its subsidiaries own or possess or have the right to use on reasonable terms all patents, patent rights, patent applications, licenses, inventions, copyrights, know how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names, service names and other intellectual property (collectively, "Intellectual Property") reasonably necessary to carry on their respective businesses as described in the Registration Statement, the Disclosure Package and the Prospectus and as proposed to be conducted, except where failure to own or possess or have the right to use would not reasonably be expected to result in a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interests of the Company or any of its subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

(w) Absence of Further Requirements. (i) No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency, domestic or foreign, (ii) no authorization, approval, vote or other consent of any holder of capital stock or other securities of the Company or any creditor of the Company, (iii) no waiver or consent under any existing Company Document, and (iv) no authorization, approval, vote or other consent of any other person or entity, is necessary or required for the issuance and sale of the Notes, the conversion of the Notes in accordance with the Indenture and the execution and delivery of, and compliance by, the Company with all of the provisions of this Agreement, the Indenture, the Notes and the Capped Call Confirmations, and the consummation of the transactions herein and therein contemplated, and the performance of its obligations hereunder and thereunder, except such as have been obtained or made by the Company and are in full force and effect or as may be required by the federal securities laws or by Blue Sky laws of the various states or foreign jurisdictions in connection with the offer and sale of the Notes.

(x) Possession of Licenses and Permits. The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them, except where failure to possess such Governmental Licenses would not reasonably be expected to result in a Material Adverse Effect; the Company and its subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, individually or in the aggregate, have a Material Adverse Effect; and neither the Company nor any of its subsidiaries has received any written notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would, reasonably be expected to result in a Material Adverse Effect.

(y) Title to Property. The Company and its subsidiaries have good and marketable title to all real property owned by any of them and good title to all other properties and assets owned by any of them, in each case, free and clear of all Liens, except such Liens as (a) are described in the Registration Statement, the Disclosure Package and the Prospectus or (b) would not or would not reasonably be expected to, individually or in the aggregate, materially affect the value of such property and would not or would not reasonably be expected to interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; all real property, buildings and other improvements, and equipment and other property held under lease or sublease by the Company or any of its subsidiaries are held by them under valid, subsisting and enforceable leases or subleases, as the case may be, with, solely in the case of leases or subleases relating to real property and buildings or other improvements, such exceptions as are not material and do not interfere with the use made or proposed to be made of such property and buildings or other improvements by the Company and its subsidiaries, and all such leases and subleases are in full force and effect; and neither the Company nor any of its subsidiaries has any notice of any claim of any sort that has been asserted by anyone adverse to the rights of the Company or any of its subsidiaries under any of the leases or subleases mentioned above or affecting or questioning the rights of the Company or any of its subsidiaries to the continued possession of the leased or subleased premises under any such lease or sublease except for such claims which, if successfully asserted against the Company or any of its subsidiaries, would not, individually or in the aggregate, have a Material Adverse Effect.

(z) Investment Company Act. The Company is not and, after giving effect to the offering and sale of the Notes, the application of the proceeds thereof as described in the Registration Statement, the Disclosure Package and the Prospectus and the transactions contemplated by the Capped Call Confirmations, will not be an “investment company” or an entity “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Investment Company Act”).

(aa) Rated Securities. Neither the Company nor any of its subsidiaries has any preferred stock or debt securities that are rated by any “nationally recognized statistical rating organization,” as such term for purposes of Section 3(a)(62) of the Exchange Act.

(bb) Environmental Laws. Except as described in the Registration Statement, the Disclosure Package or the Prospectus and except as would not, individually or in the aggregate, result in a Material Adverse Effect, (i) neither the Company nor any of its subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, legally enforceable governmental policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, “Hazardous Materials”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, “Environmental Laws”), (ii) the Company and its subsidiaries have all permits, authorizations and approvals required to be obtained by them for their respective operations under any applicable Environmental Laws and are each in compliance with their requirements, (iii) there are no pending or, to the knowledge of the Company, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries and (iv) to the knowledge of the Company, there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(cc) Absence of Registration Rights. There are no persons with registration rights or other similar rights to have any securities (debt or equity) registered pursuant to the Registration Statement or included in the offering contemplated by this Agreement under the Securities Act or, and there are no persons with co-sale rights, tag-along rights or other similar rights to have any securities (debt or equity) included in the offering contemplated by this Agreement or sold in connection with the sale of Securities pursuant to this Agreement; and the Company has given all notices required by, and has otherwise complied with its obligations under, all registration rights agreements, co-sale agreements, tag-along agreements and other similar agreements in connection with the transactions contemplated by this Agreement.

(dd) Forward-Looking Statements. No forward-looking statements (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in either the Registration Statement, the Disclosure Package or the Prospectus have been made or reaffirmed without a reasonable basis therefor or have been disclosed other than in good faith.

(ee) NYSE. The Common Stock is listed on the New York Stock Exchange (the “NYSE”) and is registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting any such securities from the NYSE, nor has the Company received any notification that the Commission or the NYSE is contemplating terminating such registration or listing.

(ff) Tax Returns. The Company and its subsidiaries have filed in a timely manner all foreign, federal, state and local tax returns that are required to be filed by them through the date hereof or have properly requested and have been granted extensions thereof, except where the failure so to file would not, individually or in the aggregate, have a Material Adverse Effect, and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against any of them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith by appropriate actions and except for such taxes, assessments, fines or penalties the nonpayment of which would not, individually or in the aggregate, have a Material Adverse Effect; and, except as disclosed in the Registration Statement, the Disclosure Package or the Prospectus, there is no tax deficiency that, to the knowledge of the Company, has been, or would reasonably be expected to be, asserted against the Company or any of its subsidiaries or any of their respective properties or assets, which, if determined adversely to any such entity, would reasonably be expected to have a Material Adverse Effect.

(gg) Insurance. The Company and its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and any fidelity or surety bonds insuring the Company or any of its subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects; there are no claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any such subsidiary has been refused any insurance coverage sought or applied for except for claims which would not, individually or in the aggregate, result in a Material Adverse Effect; and neither the Company nor any such subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(hh) Accounting Controls and Disclosure Controls. The Company and its subsidiaries maintain and have maintained effective internal controls over financial reporting as defined in Rule 13a-15 under the Exchange Act and a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences, and (v) interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto. Except as described in the Registration Statement, the Disclosure Package or the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (1) no material weakness in the Company's internal controls over financial reporting (whether or not remediated) and (2) no change in the Company's internal controls over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal controls over financial reporting. The Company and its subsidiaries employ and have employed disclosure controls and procedures as defined in Rule 13a-15 under the Exchange Act that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as appropriate, to allow timely decisions regarding disclosure.

(ii) Stock Options and Other Equity Incentive Grants. With respect to stock options or other equity incentive grants (collectively, “Awards”) granted pursuant to Company’s equity-based compensation plans (the “Equity Plans”), (i) all stock options have been granted with a per-share exercise price that is either (x) at least equal to the fair market value of a share of Common Stock as of the date of such grant, or (y) at least equal to the five-day average closing stock price of a share of Common Stock prior to the date of such grant, (ii) each such grant was made in compliance in all material respects with such Equity Plans, the Exchange Act and all other applicable laws and regulatory rules or requirements, and (iii) each such grant has been properly accounted for in all material respects in accordance with GAAP in the financial statements (including the related notes) of the Company and disclosed in the Company’s filings with the Commission.

(jj) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or any of the Company’s directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith, with which any of them is required to comply, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(kk) Absence of Manipulation. Other than excepted activity pursuant to Regulation M under the Exchange Act, neither the Company, nor any of its directors, officers, affiliates or controlling persons, has taken and will not take, directly or indirectly, any action designed to or that would constitute or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security to facilitate the sale or resale of the Notes.

(ll) Statistical, Demographic or Market-Related Data. Any statistical, demographic or market-related data included, or incorporated by reference, in the Registration Statement, the Disclosure Package or the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate, and all such data included, or incorporated by reference, in the Registration Statement, the Disclosure Package or the Prospectus accurately reflect the materials upon which they are based or from which they were derived. The Company has obtained the written consent for the use of such data from such sources to the extent necessary or as required.

(mm) Cybersecurity; Data Protection. The Company and its subsidiaries’ information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, “IT Systems”) are reasonably believed by the Company to be adequate in all material respects for, and operate and perform in all material respects as required in connection with, the operation of the business of the Company and its subsidiaries as currently conducted, and, to the knowledge of the Company, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards that are reasonably consistent with industry standards and practices, or as required by applicable regulatory standards, to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data (“Personal Data”)) used in connection with their businesses, and, to the knowledge of the Company, there have been no material breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability. Except as would not reasonably be expected to have a Material Adverse Effect, the Company and its subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

(nn) Foreign Corrupt Practices Act. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person, in each case, while acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that has resulted or would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the “FCPA”), or any other applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offense under the Bribery Act of 2010 of the United Kingdom, or any other applicable anti-corruption or anti-bribery laws, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA or any other applicable anti-corruption or antibribery laws, and the Company and its subsidiaries and, to the knowledge of the Company, its other affiliates have conducted their businesses in compliance with the FCPA and any other applicable anti-bribery and anti-corruption laws and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(oo) Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, “Money Laundering Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(pp) No Conflicts with Sanctions Laws. Neither the Company, nor any of its subsidiaries, directors or officers, nor, to the knowledge of the Company, any agent, employee or affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State and including, without limitation, the designation as a “specially designated national” or “blocked person”), the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), nor is the Company, or any of its subsidiaries located, organized or resident in a country or territory that is itself the subject or the target of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea and Syria (each, a “Sanctioned Country”); and the Company will not, directly or indirectly use any of the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is the subject or the target of any Sanctions, (ii) to fund or facilitate any activities of or any business in any Sanctioned Country or (iii) in any other manner that would reasonably be likely to result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of any Sanctions. For the past five years, the Company and its subsidiaries have not knowingly engaged in, are not now knowingly engaged in, and will not engage in, any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of any Sanctions or with any Sanctioned Country.

(qq) No Criminal Proceedings. To the knowledge of the Company, none of the current directors or officers of the Company is subject to prior regulatory, criminal or bankruptcy proceedings in the U.S. or elsewhere.

(rr) Lending Relationship. Except as disclosed in the Registration Statement, the Disclosure Package or the Prospectus or set forth in the Credit Agreement dated June 30, 2017 (as amended, restated, supplemented or otherwise modified from time to time), by and among the Company, Bank of America, N.A., as administrative agent, swing line lender and letters of credit issuer, and the other lender parties named thereto; (i) neither the Company nor any of its subsidiaries has any outstanding borrowings from, or is a party to any line of credit, credit agreement or other credit facility or otherwise has a borrowing relationship with, any bank or other lending institution affiliated with any Underwriter, and (ii) the Company does not intend to use any of the proceeds from the sale of the Notes to repay any debt owed to any Underwriter or any affiliate thereof.

(ss) Transfer Taxes. There are no stock or other transfer taxes, stamp duties, capital duties or other similar duties, taxes or charges payable in connection with the execution or delivery of this Agreement by the Company or the issuance or sale by the Company of the Notes to be sold by the Company to the Underwriters hereunder (other than any taxes, duties or charges that have been paid, or will be promptly paid, by the Company).

(tt) Related Party Transactions. There are no business relationships or related party transactions involving the Company or any of its subsidiaries or, to the knowledge of the Company, any other person that are required to be described in the Registration Statement, the Disclosure Package or the Prospectus that have not been described as required.

(uu) ERISA. (i) Each “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Security Act of 1974, as amended (“ERISA”)), for which the Company or any member of its “Controlled Group” (defined as an organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the “Code”)) would have any liability (each a “Plan”) has been maintained in compliance in all material respects with its terms and with the requirements of all applicable statutes, rules and regulations including ERISA and the Code; (ii) with respect to each Plan subject to Title IV of ERISA (a) “no reportable event” (within the meaning of Section 4043(c) of ERISA) has occurred or is reasonably expected to occur, (b) no “accumulated funding deficiency” (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, has occurred or is reasonably expected to occur, (c) the fair market value of the assets under each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan) and (d) neither the Company or any member of its Controlled Group has incurred, or reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation in the ordinary course and without default) in respect of a Plan (including a “multiemployer plan,” within the meaning of Section 4001(c)(3) of ERISA); and (iii) each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification.

(vv) No Other Contracts. Other than this Agreement, there are no contracts, agreements or understandings between the Company or any of its subsidiaries and any person that would give rise to a valid claim against the Company or any of its subsidiaries or the Representatives for a brokerage commission, finder’s fee or other like payment with respect to the consummation of the transactions contemplated by this Agreement.

(ww) FINRA Matters. All of the information provided to the Representative or to counsel for the Underwriters by the Company and, to the knowledge of the Company, its officers and directors and the holders of any securities of the Company in connection with letters, filings or other supplemental information provided to the FINRA pursuant to FINRA Conduct Rule 2710 or 2720 is true, complete and correct. To the knowledge of the Company, except as disclosed in the Registration Statement, the Disclosure Package and the Prospectus, no director or officer of the Company has any association with any FINRA member.

(xx) No Prohibition on Dividends by Subsidiaries. Except as described in the Registration Statement, the Disclosure Package and the Prospectus, no significant subsidiary (within the meaning of Regulation S-X under the Exchange Act) of the Company is prohibited, directly or indirectly, from paying any dividends or making any other distributions on such subsidiary's capital stock, from repaying any debt owed to the Company or any of its other subsidiaries, or from transferring any of its property or assets to the Company or any of its other subsidiaries.

(yy) Certificates. Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to the Underwriters as to the matters covered thereby.

2. Purchase, Sale and Delivery of the Notes.

(a) The Company agrees to issue and sell the Notes to the several Underwriters as provided in this Agreement, and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company, the respective principal amount of Notes set forth opposite such Underwriter's name in Schedule I hereto at a price equal to 96.75% of the principal amount thereof plus accrued interest, if any, from August 14, 2020.

(b) The Company understands that the Underwriters intend to make a public offering of the Notes as soon after the effectiveness of this Agreement as in the judgment of the Representatives is advisable, and initially to offer the Notes on the terms set forth in the Prospectus. The Company acknowledges and agrees that the Underwriters may offer and sell Notes to or through any affiliate of an Underwriter and that any such affiliate may offer and sell Notes purchased by it to or through any Underwriter.

(c) Payment for and delivery of the Notes will be made at the offices of Latham & Watkins LLP, 811 Main Street, Houston, Texas 77002 at 10:00 a.m., New York City time, on August 14, 2020, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing. The time and date of such payment and delivery is referred to herein as the "Closing Date."

(d) Payment for the Notes shall be made by wire transfer in immediately available funds to the account(s) specified by the Company to the Representatives against delivery to the nominee of The Depository Trust Company ("DTC"), for the account of the Underwriters, of one or more global notes representing the Notes (collectively, the "Global Note"), with any transfer taxes payable in connection with the sale of the Notes duly paid by the Company. The Global Note will be made available for inspection by the Representatives not later than 1:00 p.m., New York City time, on the business day prior to the Closing Date.

3. Agreements. The Company covenants and agrees with each Underwriter that:

(a) During the period beginning at the Initial Sale Time and ending on the later of the Closing Date or such date, as in the opinion of counsel for the Underwriters, the Prospectus is no longer required by law to be delivered in connection with sales by an Underwriter or dealer (except for delivery requirements imposed because such Underwriter or dealer is an affiliate of the Company), including in circumstances where such requirement may be satisfied pursuant to Rule 172 (the “Prospectus Delivery Period”), the Company will not file any amendment to the Registration Statement or supplement to the Base Prospectus or the Disclosure Package (including the Prospectus) unless the Company has furnished the Representatives a copy for review prior to filing and will not file any such proposed amendment or supplement to which the Representatives reasonably object; *provided, however*, that the foregoing shall not apply to filings required to be made with the Commission in order to comply with the Exchange Act so long as any such filing is provided to the Representatives a reasonable amount of time in advance of filing. Subject to the foregoing sentence, the Company will cause the Prospectus to be filed with the Commission pursuant to Rule 424 via EDGAR. The Company will advise the Representatives promptly (i) when any Preliminary Prospectus and the Prospectus shall have been filed with the Commission pursuant to Rule 424, (ii) when any amendment to the Registration Statement or the Disclosure Package relating to the Notes shall have become effective, (iii) of any request by the Commission for any amendment of the Registration Statement or amendment of or supplement to the Prospectus or the Disclosure Package, the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus of the Prospectus or the institution or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act, and (v) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Notes for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose. The Company will use its best efforts to prevent the issuance of any such stop order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification of the Notes and, if any such order is issued, to obtain as soon as possible the withdrawal thereof.

(b) Ongoing Compliance. If, at any time during the Prospectus Delivery Period, except with respect to any such delivery requirement imposed upon an affiliate of the Company in connection with any secondary market sales, any event occurs as a result of which the Disclosure Package or the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to the purchaser, not misleading, or if it shall be necessary to amend or supplement the Disclosure Package or the Prospectus to comply with the Securities Act or the Exchange Act, the Company promptly will prepare and file with the Commission, subject to the first sentence of paragraph (a) of this Section 3, an amendment or supplement which will correct such statement or omission or an amendment or supplement which will effect such compliance (including, if consented to by the Underwriters, by means of an Issuer Free Writing Prospectus), and will give immediate notice, and confirm in writing, to the Underwriters to cease the solicitation of offers to purchase the Notes, and furnish to the Underwriters a reasonable number of copies of such amendment or supplement.

(c) Earnings Statement. The Company will make generally available to its security holders and to the Representatives as soon as practicable, but not later than 60 days after the close of the period covered thereby, an earnings statement (which need not be audited) that satisfies the provisions of, and that provides the benefits contemplated by, Section 11(a) of the Securities Act and Rule 158 under the Securities Act.

(d) Delivery of Copies. The Company will furnish to the Representatives and counsel for the Underwriters, without charge, copies of the Registration Statement (including exhibits and documents incorporated by reference thereto) and each amendment thereto which shall become effective on or prior to the Closing Date and, so long as delivery of a prospectus by an Underwriter or dealer may be required by the Securities Act, as many copies of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus and any amendments thereof and supplements thereto as the Representatives may reasonably request.

(e) Blue Sky Compliance. The Company shall cooperate with the Representatives and counsel for the Underwriters to qualify or register the Notes for sale under (or obtain exemptions from the application of) the laws of such jurisdictions as the Representatives may reasonably designate, and will maintain such qualifications in effect so long as required for the distribution of the Notes; *provided, however*, that the Company shall not be required (i) to qualify to do business or as a dealer in securities in any jurisdiction where it is not now so qualified, (ii) to take any action which would subject it to general or unlimited service of process in any jurisdiction where it is not now so subject, or (iii) to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(f) Lock-Up. During the period of 60 days from the date of this Agreement, without the prior written consent of Wells Fargo Securities, LLC and Evercore Group L.L.C., the Company (i) will not, directly or indirectly, issue, offer, sell, agree to issue, offer or sell, solicit offers to purchase, grant any call option, warrant or other right to purchase, purchase any put option or other right to sell, pledge, borrow or otherwise dispose of any Relevant Security (as defined below) or make any announcement of any of the foregoing, (ii) will not establish or increase any “put equivalent position” or liquidate or decrease any “call equivalent position” (in each case within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder) with respect to any Relevant Security, and (iii) will not otherwise enter into any swap, derivative or other transaction or arrangement that transfers to another, in whole or in part, any economic consequence of ownership of a Relevant Security, whether or not such transaction is to be settled by delivery of Relevant Securities, other securities, cash or other consideration, other than (a) the sale of Notes as contemplated by this Agreement, (b) the issuance of the Conversion Shares, (c) the Company’s issuance of Common Stock upon (I) the conversion or exchange of convertible or exchangeable securities outstanding on the date hereof; (II) the exercise of currently outstanding options or the vesting of restricted stock or restricted stock units outstanding on the date hereof; (III) the exercise of currently outstanding warrants; and (IV) grants of employee or director options or restricted stock under, or the issuance and sale of shares pursuant to, employee or director equity-based plans in effect on the date hereof, each as described in the Disclosure Package and the Prospectus, (d) the entry by the Company into, and its exercise of rights and performance of obligations under, and the consummation of the transactions contemplated by, the Capped Call Confirmations, and (e) any repurchases of the Company’s 4.25% Convertible Senior Notes due 2022 and 4.125% Convertible Senior Notes due 2023. As used herein, “Relevant Security” means the Common Stock, any other equity security of the Company or any of its Subsidiaries or any security convertible into, or exercisable or exchangeable for, any Common Stock or other such equity security. The Company will not file a registration statement under the Securities Act in connection with any transaction by the Company or any person that is prohibited pursuant to the foregoing, except for registration statements on Form S-8 relating to employee benefit plans. The Company agrees to cause each officer and director of the Company set forth on Schedule VI hereto to furnish to the Representatives, prior to the date hereof, a letter or letters, substantially in the form of Exhibit A hereto (the “Lock-Up Agreements”).

(g) Final Term Sheet. The Company will prepare a final term sheet containing a description of the Notes and the offering contemplated hereby, in a form approved by the Representatives and contained in Schedule III of this Agreement, and will file such term sheet pursuant to Rule 433(d) under the Securities Act as promptly as possible, but in any case not later than the time required by such rule (such term sheet, the “Final Term Sheet”).

(h) Issuer Free Writing Prospectus. The Company represents that it has not made and agrees that, unless it obtains the prior written consent of the Representatives, it will not make, any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a “free writing prospectus” (as defined under Rule 405 under the Securities Act) required to be filed by the Company with the Commission or retained by the Company under Rule 433 under the Securities Act; provided that the prior written consent of the Representatives shall be deemed to have been given in respect of the Issuer Free Writing Prospectuses included in Schedule II hereto. Any such free writing prospectus consented to by the Representatives is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company agrees that (i) it has treated and will treat as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, and (ii) it has complied and will comply, as the case may be, with the requirements under Rules 164 and 433 under the Securities Act applicable to any Permitted Free Writing Prospectus, including in respect of timely filing with the Commission, legending and record keeping. The Company consents to the use by any Underwriter of a free writing prospectus that (a) is not an “issuer free writing prospectus” as defined under Rule 433, and (b) contains only (i) information describing the preliminary terms of the Notes or their offering, (ii) information permitted by Rule 134 under the Securities Act or (iii) information that describes the final terms of the Notes or their offering and that is included in the Final Term Sheet of the Company contemplated in Section 3(g) above.

(i) Additional Documents Filed or Incorporated by Reference. The Company agrees that any further documents filed and incorporated by reference in the Registration Statement, the Disclosure Package, any Preliminary Prospectus or the Prospectus, when such documents are filed with the Commission, will comply in all material respects with the requirements under the Securities Act or the Exchange Act, as applicable, and will not, when such documents are so filed, include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) Renewals. If immediately prior to the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Notes remain unsold by the Underwriters, the Company will file prior to the Renewal Deadline, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Notes, in a form satisfactory to the Representatives. If the Company is no longer eligible to file an automatic shelf registration statement, the Company will file prior to the Renewal Deadline, if it has not already done so, a new shelf registration statement relating to the Notes, in a form satisfactory to the Representatives, and will use its best efforts to cause such registration statement to be declared effective within 90 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Notes to continue as contemplated in the expired registration statement relating to the Notes. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be.

(k) Commission Notice. If at any time when Notes remain unsold by the Underwriters the Company receives from the Commission a notice pursuant to Rule 401(g)(2) or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company will (i) promptly notify the Representatives, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to the Notes, in a form satisfactory to the Representatives, (iii) use its best efforts to cause such registration statement or post-effective amendment to be declared effective and (iv) promptly notify the Representatives of such effectiveness. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Notes to continue as contemplated in the registration statement that was the subject of the Rule 401(g)(2) notice or for which the Company has otherwise become ineligible. References herein to the Registration Statement shall include such new registration statement or post-effective amendment, as the case may be.

(l) Filing Fee. The Company agrees to pay the required Commission filing fees relating to the Notes within the time required by Rule 456(b)(1)(i) under the Securities Act, without regard to the proviso therein, and otherwise in accordance with Rules 456(b) and 457(r) under the Securities Act, and in any event prior to the Closing Date.

(m) Use of Proceeds. The Company will apply the net proceeds from the sale of the Notes substantially as described in each of the Registration Statement, the Disclosure Package and the Prospectus under the heading "Use of Proceeds."

(n) No Stabilization. The Company will not take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Notes or the Common Stock.

(o) Reports. So long as the Notes are outstanding, the Company will furnish to the Representatives, as soon as they are available, copies of all reports or other communications (financial or other) furnished to holders of the Notes, and copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange or automatic quotation system; provided the Company will be deemed to have furnished such reports and financial statements to the Representatives to the extent they are filed on EDGAR.

(p) Record Retention. The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the Commission in accordance with Rule 433 under the Securities Act.

(q) Reservation of the Conversion Shares. The Company will, at all times, reserve and keep available, free of preemptive rights, the Maximum Number of Conversion Shares.

(r) Listing of the Conversion Shares. The Company will use its commercially reasonable efforts to list, within 30 days from the Closing Date, subject to notice of issuance if applicable, the Maximum Number of Conversion Shares, on the NYSE. The Company will use its commercially reasonable efforts to maintain the listing of such Maximum Number of Conversion Shares on the NYSE.

(s) DTC. The Company will use commercially reasonable efforts to assist the Underwriters in arranging for the Notes to be eligible for clearance and settlement through DTC.

4. Conditions to the Obligations of the Underwriters.

(a) The obligations of the Underwriters to purchase the Notes as provided herein on the Closing Date shall be subject to the accuracy of the representations and warranties on the part of the Company contained herein as of the date hereof, as of the date of the effectiveness of any amendment to the Registration Statement filed prior to the Closing Date (including the filing of any document incorporated by reference therein) and as of the Closing Date, to the accuracy of the statements of the Company made in any certificates furnished pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder and to the following additional conditions:

For the period from and after effectiveness of this Agreement and prior to the Closing Date:

(i) no stop order suspending the effectiveness of the Registration Statement, or any post-effective amendment to the Registration Statement, shall be in effect and no proceedings for such purpose shall have been instituted or, to the Company's knowledge, threatened by the Commission, and the Company shall not have received from the Commission any notice pursuant to Rule 401(g)(2) under the Securities Act objecting to use of the automatic shelf registration statement form (unless the Notes are duly registered in the manner contemplated by Rule 401(g)(2) to the satisfaction of the Representatives prior to the Closing Date);

(ii) the Company shall have filed any Preliminary Prospectus and the Prospectus with the Commission (including the information required by Rule 430B under the Securities Act) in the manner and within the time period required by Rule 424(b) under the Securities Act; or the Company shall have filed a post-effective amendment to the Registration Statement containing the information required by such Rule 430B, and such post-effective amendment shall have become effective (if not automatically effective under the rules of the Commission);

(iii) the Final Term Sheet, and any other material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act, shall have been filed with the Commission within the applicable time periods prescribed for such filings under such Rule or, to the extent applicable, under Rule 164(b);

(iv) subsequent to the date of the most recent financial statements presented in the Prospectus, there has been no Material Adverse Effect except as set forth in the Registration Statement, Disclosure Package or the Prospectus; and

(v) all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) No Material Adverse Change. Subsequent to the respective dates as of which information is given in the Registration Statement, the Disclosure Package and the Prospectus, no event or condition of a type described in Section 1(l) shall have occurred or shall exist, which event or condition is not described in the Disclosure Package (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto), the effect of which in the judgment of the Representatives makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Notes on the terms and in the manner contemplated by this Agreement, the Disclosure Package and the Prospectus.

(c) Company Counsel Opinions. On the Closing Date, the Representatives shall have received:

(i) The opinion and negative assurance letter of Baker Botts L.L.P., counsel for the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(ii) The opinion of Maslon LLP, Minnesota counsel for the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(iii) The opinion of Pinsent Masons LLP, Scottish counsel for the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(iv) The opinion of Loyens & Loeff Luxembourg SARL, Luxembourg counsel for the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(v) The opinion of Maples and Calder, Cayman Islands counsel for the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(vi) The opinion of Ken Neikirk, Senior Vice President, General Counsel and Corporate Secretary of the Company, dated the Closing Date, in form and substance satisfactory to the Representatives and their counsel.

(d) Opinion of Counsel for the Underwriters. The Representatives shall have received the opinion of Latham & Watkins LLP, counsel for the Underwriters, dated the Closing Date, in form and substance satisfactory to the Representatives.

(e) Certificate. On the Closing Date, the Company shall have furnished to the Representatives a certificate of the Company, signed by an executive officer of the Company and a principal financial or accounting officer of the Company, dated the Closing Date, to the effect that they have carefully examined the Disclosure Package, each electronic road show, the Prospectus and this Agreement and that:

(i) the representations and warranties of the Company set forth in this Agreement are true and correct on and as of the Closing Date and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date in all material respects;

(ii) no stop order suspending the effectiveness of any Registration Statement has been issued and no proceedings for that purpose have been instituted or, to the best of their knowledge and after reasonable investigation, are contemplated by the Commission; and

(iii) subsequent to the date of the most recent financial statements in the Disclosure Package and the Prospectus, there has been no Material Adverse Effect except as set forth in the Disclosure Package, the Prospectus or as described in such certificate.

(f) KPMG LLP Comfort Letters. On the date of this Agreement and on the Closing Date, KPMG LLP shall have furnished to the Representatives, letters, dated the date hereof and the Closing Date and addressed to the Underwriters, in form and substance satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters but only with respect to the financial statements and certain financial and statistical information contained or incorporated by reference in the Disclosure Package and the Prospectus.

(g) Lock-up Agreements. At or prior to the date hereof, the Representatives shall have received from each of the officers and directors listed on Schedule VI hereto an executed Lock-Up Agreement in the form of Exhibit A hereto.

(h) Additional Documents. Prior to the Closing Date, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

(i) Disclosure. There shall not have come to the Representatives' attention any facts that would cause the Representatives to believe that the Disclosure Package, as of the Initial Sale Time, or the Prospectus, at the time it was required to be delivered to a purchaser of the Notes, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) NYSE. The Maximum Number of Conversion Shares have been approved for listing on the NYSE, subject to notice of issuance.

(k) Indenture. The Indenture has been executed and delivered by each party thereto and an executed copy thereof shall have been provided to the Representatives.

(l) No Default. No “Default” or “Event of Default” shall have occurred and be continuing under the Indenture.

(m) No Adjustment to Conversion Rate. No event shall have occurred from the date hereof until the Closing Date that would, if the Notes were outstanding, require an adjustment to the “Conversion Rate” (as defined in the Indenture) pursuant to the Indenture.

(n) DTC. The Notes will be eligible for clearance and settlement through DTC.

If any of the conditions specified in this Section 4 shall not have been fulfilled in all material respects when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be in all material respects reasonably satisfactory in form and substance to the Representatives and their counsel, this Agreement and all obligations of the Underwriters hereunder may be cancelled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

5. Payment of Expenses. The Company will pay all expenses incident to the performance of its obligations under this Agreement, including, without limitation, (i) the preparation, printing, delivery to the Underwriters and filing of the Registration Statement, the Disclosure Package and the Prospectus as originally filed and of each amendment or supplement thereto, (ii) the copying of this Agreement, (iii) the preparation, issuance and delivery of the certificates for the Notes to the Underwriters, including capital duties, stamp duties and transfer taxes, if any, payable upon issuance of any of the Notes, the sale of the Notes to the Underwriters and the fees and expenses of any transfer agent or trustee for the Notes, (iv) the fees and expenses of counsel to any such transfer agent or trustee, (v) the fees and disbursements of the Company’s counsel and accountants, (vi) the qualification of the Notes under state securities laws in accordance with the provisions of Section 3(e), including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of any Blue Sky survey, (vii) all filing fees incurred in connection with the review and qualification of the offering of the Notes by FINRA (including related fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith), *provided* that the reasonable fees of counsel for the Underwriters relating to subclause (vi) and (vii) of this Section 5 shall not exceed \$10,000, (viii) any fees charged by rating agencies for the rating of the Notes, (ix) the fees and expenses of any depository and any nominee thereof in connection with the Notes and (x) all expenses incurred by the Company in connection with any “road show” presentation to potential investors.

It is understood, however, that, except as provided in this Section 5 or Sections 6 hereof, the Underwriters will pay all of their own costs and expenses, including the fees and expenses of counsel to the Underwriters and any advertising expenses incurred in connection with the offering and sale of the Notes.

If (i) the Company for any reason fails to tender the Notes of delivery to the Underwriters or (ii) the Underwriters decline to purchase the Notes for any reason permitted under this Agreement (other than by termination of this Agreement pursuant to Section 8), the Company agrees to reimburse the Underwriters for all out-of-pocket costs and expenses (including the fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby.

6. Indemnification and Contribution.

(a) Indemnification of the Underwriters. The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, employees, partners, members and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, reasonably incurred legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto) or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) any untrue statement or alleged untrue statement of a material fact included in the Prospectus (or any amendment or supplement thereto), the Disclosure Package or any electronic road show, or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with the Underwriter Information.

(b) Indemnification of the Company. Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto) or the Disclosure Package, it being understood and agreed that the only such information consists of the following: the names of the Underwriters on the cover page of and under the caption "Underwriting" in the Prospectus, the last paragraph on the cover page of the Prospectus, the concession figure appearing in the fifth paragraph under the caption "Underwriting," the paragraph relating to stabilization by the Underwriters under the caption "Underwriting," the third sentence in the eighth paragraph under the caption "Underwriting" and the eleventh and twelfth paragraphs under the caption "Underwriting."

(c) Notice and Procedures. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; *provided* that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 6 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and *provided, further*, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 6. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person will be entitled to participate therein and, to the extent that it may wish, jointly with any other Indemnifying Person similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person (who shall not, except with the consent of the Indemnifying Person, be counsel to the Indemnifying Person), and after notice from the Indemnifying Person to such Indemnifying Person of its election so to assume the defense thereof, the Indemnifying Person will not be liable to such Indemnified Person under this section for any legal or other expenses subsequently incurred by such Indemnified Person in connection with the defense thereof other than reasonable costs of investigation. Notwithstanding the Indemnified Person's election to appoint counsel to represent the Indemnified Person in an action, the Indemnified Person shall have the right to employ separate counsel (including local counsel), and the Indemnifying Person shall bear the reasonable fees, costs and expenses of such separate counsel unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by Wells Fargo Securities, LLC and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any pending or threatened action or proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into in good faith by the Indemnified Person more than 90 days after receipt by the Indemnifying Person of such request, (ii) the Indemnifying Person shall have received notice of the terms of such settlement at least 45 days prior to such settlement being entered into and (iii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) Contribution. If the indemnification provided for in paragraphs (a) or (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Notes or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Notes and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Notes. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) Limitation on Liability. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 6 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 6, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Securities exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 6 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) Non-Exclusive Remedies. The remedies provided for in this Section 6 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

7. Default by an Underwriter.

(a) If, on the Closing Date, any Underwriter defaults on its obligation to purchase the Notes that it has agreed to purchase hereunder, the non-defaulting Underwriters shall use their reasonable best efforts to arrange for the purchase of such Notes by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Notes, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Notes on such terms. If other persons become obligated or agree to purchase the Notes of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule I hereto that, pursuant to this Section 7, purchases Notes that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Notes of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Notes that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Notes, then the Company shall have the right to require each non-defaulting Underwriter to purchase the principal amount of Notes that such Underwriter agreed to purchase hereunder plus such Underwriter's pro rata share (based on the principal amount of Notes that such Underwriter agreed to purchase hereunder) of the Notes of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Notes of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Notes that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Notes, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 7 shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 5 hereof and except that the provisions of Section 6 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

8. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Company prior to delivery of and payment for the Notes, if prior to such time (i) trading in securities generally or in the Common Stock of the Company listed on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such exchange, (ii) a banking moratorium shall have been declared by Federal or New York State authorities or a material disruption in the commercial banking or securities settlement or clearance services in the United States shall have occurred or (iii) there shall have occurred any outbreak or material escalation of hostilities or other calamity or crisis (in the United States or elsewhere) the effect of which on the financial markets of the United States is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to market the Notes or proceed with the offering of the Notes.

9. Representations and Indemnities to Survive. The respective agreements, representations, warranties, indemnities and other statements of the Company or its officers and of the Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of any Underwriter or the Company or any of the officers, directors or controlling persons referred to in Section 6 hereof, and will survive delivery of and payment for the Notes. The provisions of Sections 5 and 6 hereof and this Section 9 shall survive the termination or cancellation of this Agreement.

10. Notices. All notices and other communications hereunder will be in writing and effective only on receipt, and, (a) if sent to the Representatives, will be mailed, delivered or faxed and confirmed to them at: Wells Fargo Securities, LLC, 500 West 33rd Street, New York, New York 10001, Attention: Equity Syndicate Department (fax no: (212) 214-5918) and Evercore Group L.L.C., 55 East 52nd Street New York, NY 10055, Attention: Equity Capital Markets or (b) if sent to the Company, will be mailed, delivered or faxed and confirmed to it at Helix Energy Solutions Group, Inc., 3505 West Sam Houston Parkway North Suite 400, Houston, Texas 77043, Facsimile Number: (281) 618-0505, Attention: General Counsel, with a copy (which shall not constitute notice) to Baker Botts L.L.P., 910 Louisiana Street, Houston, Texas 77002, Facsimile Number: (713) 229-7778, Attention: Gene J. Oshman.

11. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and controlling persons referred to in Section 6 hereof, and no other person will have any right or obligation hereunder. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Notes from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

12. No Fiduciary Duties; Agreement Complete.

(a) The Company acknowledges and agrees that: (i) the purchase and sale of the Notes pursuant to this Agreement, including the determination of the public offering price of the Notes and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement; (ii) in connection with each transaction contemplated hereby and the process leading to such transaction each Underwriter is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary of the Company, or its affiliates, stockholders, creditors or employees or any other party; (iii) no Underwriter has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement; (iv) the several Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and that the several Underwriters have no obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

(b) The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Underwriters shall have no responsibility or liability to the Company with respect thereto. Any review by the Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company. This Agreement supersedes all prior agreements and understandings (whether written or oral) among the Company and the several Underwriters, or any of them, with respect to the subject matter hereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the several Underwriters with respect to any breach or alleged breach of agency or fiduciary duty.

13. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act.

14. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this Section 14:

(i) “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

(ii) “Covered Entity” means any of the following: a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82; a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

(iii) “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) “U.S. Special Resolution Regime” means each of the Federal Deposit Insurance Act and the regulations promulgated thereunder and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

15. Authority of the Representatives. Any action by the Underwriters hereunder may be taken by Evercore Group L.L.C. and Wells Fargo Securities, LLC, on behalf of the Underwriters, and any such action taken by Evercore Group L.L.C. and Wells Fargo Securities, LLC shall be binding upon the Underwriters.

16. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

17. Counterparts. This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument. A party’s electronic signature (complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law) of this Agreement shall have the same validity and effect as a signature affixed by the party’s hand.

18. Amendments or Waivers. No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

19. Headings. The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

20. Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

[Signature page follows]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Underwriters and the Company in accordance with its terms.

Very truly yours,

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief Financial Officer

CONFIRMED AND ACCEPTED as of the date first above written:

*As Representatives of the several Underwriters
named in Schedule I herein*
WELLS FARGO SECURITIES, LLC

By: /s/ Elizabeth Alvarez
Name: Elizabeth Alvarez
Title: Managing Director

EVERCORE GROUP L.L.C.

By: /s/ Crystal A. Simpson
Name: Crystal A. Simpson
Title: Managing Director

[Signature Page to Underwriting Agreement]

SCHEDULE I

Underwriter	Principal Amount of Notes to be Purchased
Wells Fargo Securities, LLC	\$ 88,460,000
Evercore Group L.L.C.	88,460,000
Raymond James & Associates, Inc.	9,231,000
ING Financial Markets LLC	3,847,000
Regions Securities LLC	3,847,000
BBVA Securities Inc.	2,308,000
HSBC Securities (USA) Inc.	2,308,000
BTIG, LLC	1,539,000
Total	\$ 200,000,000

SCHEDULE II

Issuer Free Writing Prospectuses

Final Term Sheet, as set forth in Schedule III.

SCHEDULE III

Pricing Term Sheet dated August 11, 2020

**HELIX ENERGY SOLUTIONS GROUP, INC.
\$200 MILLION 6.75% CONVERTIBLE
SENIOR NOTES DUE 2026**

The information in this pricing term sheet supplements Helix Energy Solutions Group, Inc.'s preliminary prospectus supplement, dated August 11, 2020 (the "Preliminary Prospectus Supplement"), and supersedes the information in the Preliminary Prospectus Supplement to the extent inconsistent with the information in the Preliminary Prospectus Supplement. Terms used, but not defined, in this pricing term sheet have the respective meanings set forth in the Preliminary Prospectus Supplement. As used in this pricing term sheet, "Issuer," "we," "our" and "us" refer to Helix Energy Solutions Group, Inc. and not to its subsidiaries.

Summary of Terms for Issuance

Issuer:	Helix Energy Solutions Group, Inc.
Security:	6.75% Convertible Senior Notes due 2026.
Trading Symbol of Common Stock:	The Issuer's common stock is listed on the NYSE under the symbol "HLX."
Principal Amount:	\$200 million.
Issue Price:	100% plus accrued interest, if any, from the Settlement Date.
Use of Proceeds:	<p>The Issuer estimates that its net proceeds from the sale of the notes will be approximately \$192.5 million after deducting the underwriting fees and all estimated offering expenses that are payable by the Issuer.</p> <p>The Issuer intends to use approximately \$10.5 million of the net proceeds to fund the cost of entering into the capped call transactions described in the Preliminary Prospectus Supplement. The Issuer expects to use approximately \$183 million (or approximately \$186 million with accrued interest), consisting of the remainder of the net proceeds together with cash on hand, to repurchase approximately \$90 million aggregate principal amount of its 4.25% Convertible Senior Notes due 2022 and approximately \$95 million aggregate principal amount of its 4.125% Convertible Senior Notes due 2023 in privately negotiated transactions effected through one of the underwriters or its affiliate, as the Issuer's agent.</p>

Capped Price:	The cap price of the capped call transactions will initially be \$8.4175 per share of the Issuer's common stock, which represents a premium of 75% over the closing price of the Issuer's common stock on the New York Stock Exchange of \$4.81 per share on August 11, 2020, and is subject to certain adjustments under the terms of the capped call transactions. See "Description of the Concurrent Capped Call Transactions" in the Preliminary Prospectus Supplement.
Trade Date:	August 12, 2020.
Settlement Date:	August 14, 2020.
Maturity Date:	February 15, 2026, unless earlier redeemed, repurchased or converted.
Interest Rate:	6.75% per annum.
NYSE Last Reported Sale Price per Share on August 11, 2020:	\$4.81.
Premium:	Approximately 45% above the NYSE Last Reported Sale Price per Share on August 11, 2020.
Initial Conversion Price:	Approximately \$6.97 per share of HLX common stock.
Initial Conversion Rate:	143.3795 shares of HLX common stock per \$1,000 principal amount.
Interest Payment Dates:	Semi-annually in arrears on February 15 and August 15 of each year, starting on February 15, 2021.
Adjustment to the Conversion Rate Upon the Occurrence of a Make-Whole Fundamental Change:	If a make-whole fundamental change occurs and the conversion date for the conversion of a note occurs during the related make-whole conversion period, then, subject to the provisions described in the Preliminary Prospectus Supplement under the caption "Description of Notes—Adjustment to the Conversion Rate Upon the Occurrence of a Make-Whole Fundamental Change," the conversion rate applicable to such conversion will be increased by a number of shares set forth in the table below corresponding (after interpolation, as described below) to the effective date and the applicable price of such make-whole fundamental change:

Effective Date	Applicable Stock Price											
	\$4.81	\$6.00	\$6.97	\$8.00	\$9.07	\$12.00	\$15.00	\$20.00	\$40.00	\$60.00	\$80.00	\$100.00
August 14, 2020	64.5207	46.1183	37.1851	30.7763	26.0628	18.1950	13.6533	9.2460	2.8443	0.9457	0.2316	0.0000
February 15, 2021	64.5207	44.2467	35.3529	29.0825	24.5402	17.0833	12.8280	8.7120	2.7143	0.9132	0.2269	0.0000
February 15, 2022	64.5207	40.1117	31.2166	25.2263	21.0628	14.5375	10.9307	7.4635	2.3838	0.8197	0.2051	0.0000
February 15, 2023	64.5207	35.5500	26.4433	20.7113	16.9835	11.5650	8.7087	5.9815	1.9620	0.6935	0.1773	0.0000
February 15, 2024	64.5207	30.6400	20.8666	15.3500	12.1665	8.1208	6.1313	4.2380	1.4295	0.5222	0.1354	0.0000
February 15, 2025	64.5207	25.5650	14.0043	8.7375	6.4300	4.1742	3.1680	2.2050	0.7680	0.2945	0.0793	0.0000
February 15, 2026	64.5207	23.2867	0.0933	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact applicable price and effective date may not be as set forth in the table above, in which case:

- if the actual applicable price is between two applicable prices listed in the table above, or the actual effective date is between two effective dates listed in the table above, the Issuer will determine the number of additional shares by linear interpolation between the numbers of additional shares set forth for the higher and lower applicable prices, or for the earlier and later effective dates based on a 365- or 366-day year, as applicable;
- if the actual applicable price is greater than \$100.00 per share (subject to adjustment in the same manner as the “applicable prices” in the table above), the Issuer will not increase the conversion rate; and
- if the actual applicable price is less than \$4.81 per share (subject to adjustment in the same manner as the “applicable prices” in the table above), the Issuer will not increase the conversion rate.

However, the Issuer will not increase the conversion rate as described above to the extent the increase will cause the conversion rate to exceed 207.9002 shares of the Issuer’s common stock per \$1,000 principal amount of notes. The Issuer will adjust this maximum conversion rate in the same manner in which, and for the same events for which, the Issuer must adjust the conversion rate as described in the Preliminary Prospectus Supplement under the caption “Description of Notes —Adjustments to the Conversion Rate.”

CUSIP/ISIN: 42330P AK3 / US42330PAK30.

Joint Book-Running Managers: Wells Fargo Securities, LLC and Evercore Group L.L.C.

Co-Managers: Raymond James & Associates, Inc.
ING Financial Markets LLC
Regions Securities LLC
BBVA Securities Inc.
HSBC Securities (USA) Inc.
BTIG, LLC

Helix Energy Solutions Group, Inc. has filed a registration statement (including a prospectus and preliminary prospectus supplement) with the Securities and Exchange Commission (the "SEC") for the offering to which this communication relates. Before you invest, you should read each of these documents and the other documents filed with the SEC and incorporated by reference in such documents for more complete information about Helix Energy Solutions Group, Inc. and this offering. Any offer will be made only by means of a prospectus and related prospectus supplement, copies of which may be obtained from Wells Fargo Securities, LLC, Attention: Equity Syndicate Department, 500 West 33rd Street, New York, New York 10001, Telephone: 800-326-5897, Email: cmclientsupport@wellsfargo.com; or Evercore Group L.L.C., Attention: Equity Capital Markets, 55 East 52nd Street, 36th Floor, New York, New York 10055, Telephone: 888-474-0200, Email: ecm.prospectus@evercore.com. Electronic copies of the prospectus and prospectus supplement may also be obtained for free by visiting EDGAR on the SEC's website at <http://www.sec.gov>.

This pricing term sheet does not constitute an offer to sell or a solicitation of an offer to buy any notes in any jurisdiction where it is unlawful to do so, where the person making the offer is not qualified to do so or to any person who cannot legally be offered the notes.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE IV

Material Subsidiaries

Name of Subsidiary	Jurisdiction of Formation
Cal Dive I-Title XI, Inc.	Texas
Helix Robotics Solutions, Inc.	Texas
Helix Robotics Solutions International Corp.	Texas
Helix Robotics Solutions Limited	Scotland
Helix Offshore International Holdings S.à r.l.	Grand Duchy of Luxembourg
Helix Offshore Ltd.	Cayman Islands
Helix Q5000 Holdings S.à r.l.	Grand Duchy of Luxembourg
Helix Offshore Services Limited	Scotland
Helix Well Ops Inc.	Texas
Helix Well Ops (U.K.) Limited	Scotland

SCHEDULE V**Subsidiaries of the Company**

Name	Jurisdiction of Organization	Type of Entity
Cal Dive I-Title XI, Inc.	Texas	Corporation
Deepwater Abandonment Alternatives, Inc.	Texas	Corporation
Energy Resource Technology (U.K.) Limited	Scotland	Limited Company
ERT Camelot Limited	Scotland	Limited Company
Helix Robotics Solutions, Inc.	Texas	Corporation
Helix Robotics Solutions International Corp.	Texas	Corporation
Helix Robotics Solutions Limited	Scotland	Limited Company
Helix do Brasil Serviços de Petróleo Ltda	Brazil	Limited Liability Company
Helix Energy Solutions (U.K.) Limited	Scotland	Limited Company
Helix Group Holdings S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Offshore Crewing Services Limited	Scotland	Limited Company
Helix Offshore Crewing Services PTE. Ltd.	Singapore	Private Limited Company
Helix Offshore International Holdings S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Offshore International, Inc.	Texas	Corporation
Helix Offshore Ltd.	Cayman Islands	Exempted Company Incorporated with Limited Liability
Helix Offshore Holdings Ltd.	Cayman Islands	Exempted Company Incorporated with Limited Liability
Helix Offshore Services A.S.	Norway	Limited Company
Helix Offshore Services Limited	Scotland	Limited Company
Helix Offshore Services S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Oil & Gas (U.K.) Limited	Scotland	Limited Company
Helix Property Corp.	Texas	Corporation
Helix Q5000 Holdings S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Q7000 Vessel Holdings S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Subsea Construction, Inc.	Delaware	Corporation
Helix Vessel Finance S.à r.l.	Grand Duchy of Luxembourg	Private Limited Liability Company
Helix Well Ops Inc.	Texas	Corporation
Helix Well Ops (U.K.) Limited	Scotland	Limited Company
Independence Hub, LLC (20%)	Delaware	Limited Liability Company
Kommandor LLC	Delaware	Limited Liability Company
Offshore Well Services, S. de R.L. de C.V.	Mexico	Limited Liability Company
Subsea Technologies (Aberdeen) Limited (70%)	Scotland	Limited Company
Subsea Technologies Group Limited (70%)	Scotland	Limited Company
Subsea Technologies Limited (70%)	Scotland	Limited Company
Subsea Technologies (UK) Limited (70%)	Scotland	Limited Company

SCHEDULE VI

Lock-up Signatories

- Owen Kratz
 - Erik Staffeldt
 - Scotty Sparks
 - Ken Neikirk
 - William L. Transier
 - Amy H. Nelson
 - Amerino Gatti
 - John V. Lovoi
 - Jan A. Rask
 - James A. Watt
- President and Chief Executive Officer
Executive Vice President and Chief Financial Officer
Executive Vice President and Chief Operating Officer
Senior Vice President, General Counsel and Corporate Secretary
Chairman of the Board
Director
Director
Director
Director
Director
-

EXHIBIT A

Form of Lock-up Agreement

August 11, 2020

Wells Fargo Securities, LLC
500 West 33rd Street, 14th Floor
New York, New York 10001

Evercore Group L.L.C.
55 East 52nd Street
New York, NY 10055

Helix Energy Solutions Group, Inc., Lock-Up Agreement

Ladies and Gentlemen:

This letter (the "Agreement") is being delivered to you in connection with the proposed Underwriting Agreement (the "Underwriting Agreement"), among Helix Energy Solutions Group, Inc., a Minnesota corporation (the "Company"), and Wells Fargo Securities, LLC and Evercore Group L.L.C., as representatives of the several underwriters named therein, relating to the offering by the Company of its Convertible Senior Notes due 2026 (the "Notes") in an aggregate principal amount of up to \$200 million. Terms used herein, but not defined, shall have the meaning ascribed to them in the Underwriting Agreement.

In order to induce you to enter into the Underwriting Agreement, the undersigned hereby agrees that, without the prior written consent of Wells Fargo Securities, LLC during the period from the date hereof until sixty (60) days from the date of the Underwriting Agreement (the "Lock-Up Period"), the undersigned (a) will not, directly or indirectly, issue, offer, sell, agree to issue, offer or sell, solicit offers to purchase, grant any call option, warrant or other right to purchase, purchase any put option or other right to sell, pledge, borrow or otherwise dispose of any Relevant Security (as defined below), and (b) will not establish or increase any "put equivalent position" or liquidate or decrease any "call equivalent position" with respect to any Relevant Security (in each case within the meaning of Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), with respect to any Relevant Security, or otherwise enter into any swap, derivative or other transaction or arrangement that transfers to another, in whole or in part, any economic consequence of ownership of a Relevant Security, whether or not such transaction is to be settled by delivery of Relevant Securities, other securities, cash or other consideration. The foregoing sentence shall not apply to: (1) the transfer the undersigned's shares of a Relevant Security as a *bona fide* gift or gifts, including by will or intestacy, and transfers by testate or intestate succession; (2) the transfer of the undersigned's shares of a Relevant Security to its affiliates, as such term is defined in Rule 405 under the Securities Act; (3) the transfer of the undersigned's shares of a Relevant Security to any family member, trust, family limited partnership or family limited liability company for the direct or indirect benefit of the undersigned or the family of the undersigned; provided that any such transfer shall not involve a disposition for value; (4) the transfer of the undersigned's shares of a Relevant Security with the written consent of Wells Fargo Securities, LLC; (5) transactions in Relevant Securities acquired in the open market after the completion of the offering; provided that with respect to any sale or other disposition of such Relevant Securities, no filing by any party under the Exchange Act shall be required or shall be voluntarily made in connection with subsequent sales of such Relevant Securities acquired in such open market transactions (other than a filing on a Form 5, Schedule 13D or Schedule 13G (or 13D-A or 13G-A)); or (6) (i) the establishment of any contract, instruction or plan (a "Plan") that satisfies all of the requirements of Rule 10b5-1(c)(1)(i)(B) under the Exchange Act or (ii) sales pursuant to any Plan currently in effect on the date hereof; *provided, however*, that with respect to clause (i) no sales of Relevant Securities shall be made pursuant to a Plan prior to the expiration of the Lock-Up Period (as the same may be extended pursuant to the provisions hereof); *provided further*, with respect to clause (i) that the Company is not required to report the establishment of such Plan in any public report or filing with the Securities and Exchange Commission (the "Commission") under the Exchange Act during the Lock-Up Period and does not otherwise voluntarily effect any such public filing or report regarding such Plan. Notwithstanding the foregoing, in the case of any transfer pursuant to (1) through (4) above, each resulting transferee or (trustee, as applicable) of Relevant Securities shall execute and deliver to you an agreement satisfactory to you certifying that such transferee is bound by the terms of this Agreement and has been in compliance with the terms hereof since the date first above written as if it had been an original party hereto.

Nothing in this Agreement shall prohibit (i) any grant or exercise of options to purchase a Relevant Security or (ii) any vesting or exercise of any other equity-based awards, in each case pursuant to the Company's or subsidiary's option plans, other equity incentive plans or any other plan or agreement described in the prospectus included or incorporated by reference in the registration statement with respect to the Notes, and the withholding of Relevant Securities by the Company for the payment of taxes due upon such exercise or vesting, provided that any Relevant Securities received upon such exercise or vesting will also be subject to this Agreement.

As used herein, (i) "Relevant Security" means the common stock (the "Common Stock"), any other equity security of the Company or any of its subsidiaries and any security convertible into, or exercisable or exchangeable for, any Common Stock or other such equity security, and (ii) "immediate family" shall mean any relationship by blood, marriage, or adoption, not more remote than first cousin.

The undersigned hereby authorizes the Company during the Lock-Up Period to cause any transfer agent for the Relevant Securities to decline to transfer, and to note stop transfer restrictions on the stock register and other records relating to, Relevant Securities for which the undersigned is the record holder and, in the case of Relevant Securities for which the undersigned is the beneficial but not the record holder, agrees during the Lock-Up Period to cause the record holder to cause the relevant transfer agent to decline to transfer, and to note stop transfer restrictions on the stock register and other records relating to, such Relevant Securities. The undersigned hereby further agrees that, without the prior written consent of Wells Fargo Securities, LLC, during the Lock-up Period the undersigned (x) will not file or participate in the filing with the Commission of any registration statement, or circulate or participate in the circulation of any preliminary or final prospectus or other disclosure document with respect to any proposed offering or sale of a Relevant Security and (y) will not exercise any rights the undersigned may have to require registration with the Commission of any proposed offering or sale of a Relevant Security.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Agreement and that this Agreement constitutes the legal, valid and binding obligation of the undersigned, enforceable in accordance with its terms. Upon request, the undersigned will execute any additional documents necessary in connection with enforcement hereof. Any obligations of the undersigned shall be binding upon the successors and assigns of the undersigned from the date first above written.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Delivery of a signed copy of this letter by facsimile transmission shall be effective as delivery of the original hereof.

Very truly yours,

By: _____

Print Name: _____

HELIX ENERGY SOLUTIONS GROUP, INC.
as Issuer

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
as Trustee

Indenture

Dated as of August 14, 2020

Senior Debt Securities

Reconciliation and tie between Trust Indenture Act of 1939
and Indenture, dated as of August 14, 2020

Section of Trust Indenture Act of 1939		Section(s) of Indenture
§ 310	(a)(1)	7.10
	(a)(2)	7.10
	(a)(3)	Not Applicable
	(a)(4)	Not Applicable
	(a)(5)	7.10
	(b)	7.08, 7.10
§ 311	(a)	7.11
	(b)	7.11
	(c)	Not Applicable
§ 312	(a)	2.07
	(b)	10.03
	(c)	10.03
§ 313	(a)	7.06
	(b)	7.06
	(c)	7.06
	(d)	7.06
§ 314	(a)	4.03, 4.04
	(b)	Not Applicable
	(c)(1)	10.04
	(c)(2)	10.04
	(c)(3)	Not Applicable
	(d)	Not Applicable
	(e)	10.05
§ 315	(a)	7.01(b)
	(b)	7.05
	(c)	7.01(a)
	(d)	7.01(c)
	(d)(1)	7.01(c)(1)
	(d)(2)	7.01(c)(2)
	(d)(3)	7.01(c)(3)
	(e)	6.11
§ 316	(a)(1)(A)	6.05
	(a)(1)(B)	6.04
	(a)(2)	Not Applicable
	(a)(last sentence)	2.11
	(b)	6.07
§ 317	(a)(1)	6.08
	(a)(2)	6.09
	(b)	2.06
§ 318	(a)	10.01

Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE dated as of August 14, 2020 between Helix Energy Solutions Group, Inc., a Minnesota corporation (the “Company”), and The Bank of New York Mellon Trust Company, N.A., a national banking association, as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Company’s unsecured debentures, notes or other evidences of indebtedness (the “Securities”) to be issued from time to time in one or more series as provided in this Indenture:

ARTICLE I
DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 *Definitions*

“Additional Amounts” means any additional amounts required by the express terms of a Security or by or pursuant to a Board Resolution, under circumstances specified therein or pursuant thereto, to be paid by the Company with respect to certain taxes, assessments or other governmental charges imposed on certain Holders and that are owing to those Holders.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, that specified Person. For purposes of this definition, “control” of a Person shall mean the power to direct the management and policies of that Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” shall have meanings correlative to the foregoing. “Agent” means any Registrar or Paying Agent.

“Bankruptcy Law” means Title 11 of the United States Code or any similar federal, state or foreign law for the relief of debtors.

“Board of Directors” means the Board of Directors of the Company or any committee thereof duly authorized, with respect to any particular matter, to act by or on behalf of the Board of Directors of the Company.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Business Day” means any day that is not a Legal Holiday.

“Capital Stock” means, with respect to any Person, any and all shares, interests, rights to purchase (other than convertible or exchangeable Indebtedness), warrants, options, participations or other equivalents of or interests (however designated) in equity issued by that Person.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean that successor Person; provided, however, that for purposes of any provision contained herein that is required by the TIA, “Company” shall also mean each other obligor (if any) on the Securities of a series.

“Company Order” and “Company Request” mean, respectively, a written order or request signed in the name of the Company by two Officers of the Company, and delivered to the Trustee.

“Corporate Trust Office” means the office of the Trustee at which at any particular time its corporate trust business in Chicago, Illinois shall be principally administered, which office as of the date of this instrument is located at 2 North LaSalle Street, 7th Floor, Suite 700, Chicago, Illinois 60602, except that with respect to presentation of Securities for payment or for registration of transfer, conversion or exchange, such term shall mean the office or agency of the Trustee at which at any particular time its corporate agency business shall be conducted, which office at the date of this instrument is located at 240 Greenwich Street, New York, New York 10286, or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Company.

“corporation” means a corporation, association, limited liability company, company, joint-stock company or business trust.

“Default” means any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default.

“deliver” or “delivery” means, in the context of certificated Securities, actual physical delivery of the certificated Securities to the relevant Person required hereunder, together with all endorsements, and in the context of Global Securities, the designation on the records of the Depository of a change in the beneficial interests of a holder in a Global Security.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person specified pursuant to Section 2.01 as the initial Depository with respect to the Securities of that series, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and thereafter “Depository” shall mean or include that successor.

“Dollar” or “\$” means a dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debt.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor statute.

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

“Global Security” of any series means a Security of that series that is issued in global form in the name of the Depositary with respect thereto or its nominee.

“Government Obligations” means, with respect to a series of Securities, direct obligations of the government that issues the currency in which the Securities of the series are payable for the payment of which the full faith and credit of that government is pledged, or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of that government, the payment of which is unconditionally guaranteed as a full faith and credit obligation by that government.

“Holder” means a Person in whose name a Security is registered.

“Indenture” means this Indenture as amended or supplemented from time to time pursuant to the provisions hereof, and includes the terms of a particular series of Securities established as contemplated by Section 2.01.

“interest” means, with respect to an Original Issue Discount Security that by its terms bears interest only after Maturity, interest payable after Maturity.

“Interest Payment Date,” when used with respect to any Security, shall have the meaning assigned to that term in the Security as contemplated by Section 2.01.

“Issue Date” means, with respect to Securities of a series, the date on which the Securities of that series are originally issued under this Indenture.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions in any of The City of New York, New York, Houston, Texas or a Place of Payment are authorized or obligated by law, regulation or executive order to remain closed.

“Maturity” means, with respect to any Security, the date on which the principal of that Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity thereof, or by declaration of acceleration, call for redemption or otherwise.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman of the Board, the Chief Financial Officer, any Vice President, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Assistant Secretary of a Person or any other officer or officers of such Person designated in writing by or pursuant to the authority of the board of directors of such Person.

“Officers’ Certificate” means a certificate signed by two Officers of the Company and delivered to the Trustee.

“Opinion of Counsel” means a written opinion of counsel, who may be an employee of, or outside counsel to, the Company, and who shall be acceptable to the Trustee.

“Original Issue Discount Security” means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.02.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or other agency, instrumentality or political subdivision thereof or other entity of any kind.

“Place of Payment” means, with respect to the Securities of any series, the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of that series are payable as specified in accordance with Section 2.01.

“principal” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“Redemption Date” means, with respect to any Security to be redeemed, the date fixed for that redemption by or pursuant to this Indenture.

“Redemption Price” means, with respect to any Security to be redeemed, the price at which it is to be redeemed pursuant to this Indenture.

“Responsible Officer” means, with respect to the Trustee, any officer assigned to the Corporate Trust Division - Corporate Finance Unit (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and for the purposes of Section 7.01(c)(2) and Section 7.05 shall also include any other officer of the Trustee to whom any corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“Rule 144A Securities” means Securities of a series designated pursuant to Section 2.01 as entitled to the benefits of Section 4.03(b).

“SEC” means the Securities and Exchange Commission.

“Securities” has the meaning stated in the preamble of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

“Security Custodian” means, with respect to Securities of a series issued in global form, the Trustee for Securities of that series, as custodian with respect to the Securities of that series, or any successor entity thereto.

“Stated Maturity” means, when used with respect to any Security or any installment of principal thereof or interest thereon, the date specified in that Security as the fixed date on which the principal of that Security or that installment of principal or interest is due and payable.

“Subsidiary” means a Person at least a majority of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For the purposes of this definition, “voting stock” means stock that ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has that voting power by reason of any contingency.

“surrender” shall have the same meaning as “deliver” in the context of the surrender of a Security.

“TIA” means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbb), as in effect on the date hereof; *provided, however*, that, in the event the Trust Indenture Act of 1939 is amended after such date, “TIA” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“Trustee” means the Person named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter “Trustee” means each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series means the Trustee with respect to Securities of that series.

“United States” means the United States of America (including the States and the District of Columbia) and its territories and possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands).

“United States Alien” means any Person who, for United States federal income tax purposes, is a foreign corporation, a nonresident alien individual, a nonresident alien or foreign fiduciary of an estate or trust, or a foreign partnership.

“U.S. Government Obligations” means Government Obligations with respect to Securities payable in Dollars.

SECTION 1.02 *Other Definitions*

Defined Term	Defined in Section
“Agent Members”	2.17
“Applicable Tax Law”	7.02
“Bankruptcy Custodian”	6.01
“Conversion Event”	6.01
“covenant defeasance”	8.01
“EDGAR”	4.03
“Event of Default”	6.01
“Exchange Rate”	2.11
“Judgment Currency”	6.10
“legal defeasance”	8.01
“mandatory sinking fund payment”	3.09
“optional sinking fund payment”	3.09
“Paying Agent”	2.05
“Registrar”	2.05
“Required Currency”	6.10
“Successor”	5.01

SECTION 1.03 *Incorporation by Reference of Trust Indenture Act*

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

“Commission” means the SEC.

“indenture securities” means the Securities.

“indenture security holder” means a Holder.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor” on the indenture securities means the Company or any other obligor on the Securities.

All terms used in this Indenture that are defined by the TIA, defined by a TIA reference to another statute or defined by an SEC rule under the TIA have the meanings so assigned to them.

SECTION 1.04 *Rules of Construction*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions;
- (6) all references in this instrument to Articles and Sections are references to the corresponding Articles and Sections in and of this instrument;
- (7) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision; and

- (8) "including" means "including without limitation", "including but not limited to" or words of similar import.

ARTICLE II
THE SECURITIES

SECTION 2.01 *Amount Unlimited; Issuable in Series*

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth, or determined in a manner provided, in an Officers' Certificate or in a Company Order, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

- (1) the title of the Securities of the series (which shall distinguish the Securities of the series from the Securities of all other series);
- (2) if there is to be a limit, the limit on the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered on registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, 2.09, 2.12, 2.17, 3.07 or 9.05 and except for any Securities that, pursuant to Section 2.04 or 2.17, are deemed never to have been authenticated and delivered hereunder); provided, however, that unless otherwise provided in the terms of the series, the authorized aggregate principal amount of that series may be increased before or after the issuance of any Securities of the series by a Board Resolution (or action pursuant to a Board Resolution) to that effect;
- (3) whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form, as Global Securities or otherwise, and, if so, whether beneficial owners of interests in any such Global Security may exchange those interests for Securities of that series and of like tenor of any authorized form and denomination and the circumstances under which those exchanges may occur, if other than in the manner provided in Section 2.17, and the initial Depositary and Security Custodian, if any, for any Global Security or Securities of that series;
- (4) (i) if other than provided herein, the Person to whom any interest on Securities of the series shall be payable, and (ii) the manner in which any interest payable on a temporary Global Security on any Interest Payment Date will be paid if other than in the manner provided in Section 2.14;
- (5) the date or dates on which the principal of (and premium, if any, on) the Securities of the series is payable or the method of determination thereof;

(6) the rate or rates, or the method of determination thereof, at which the Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to those Securities shall be payable, the date or dates from which that interest shall accrue, the Interest Payment Dates on which that interest shall be payable and the record date for the interest payable on any Securities on any Interest Payment Date;

(7) the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of the series shall be payable;

(8) the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option, and the manner in which the Company may exercise any such option, if different from those set forth herein;

(9) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions on which Securities of the series shall be redeemed, purchased or repaid in whole or in part pursuant to that obligation;

(10) if other than denominations of \$1,000 and any integral multiple thereof, the denomination in which any Securities of that series shall be issuable;

(11) if other than Dollars, the currency or currencies (including composite currencies) or the form, including equity securities, other debt securities (including Securities), warrants or any other securities or property of the Company or any other Person, in which payment of the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of the series shall be payable;

(12) if the principal of, premium (if any) or interest on, or any Additional Amounts with respect to, the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the currency or currencies (including composite currencies) in which payment of the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of that series as to which that election is made shall be payable, and the periods within which and the terms and conditions on which that election is to be made;

(13) if the amount of payments of principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of the series may be determined with reference to any commodities, currencies or indices, values, rates or prices or any other index or formula, the manner in which those amounts shall be determined;

(14) if other than the entire principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable on declaration of acceleration of the Maturity thereof pursuant to Section 6.02;

(15) any additional means of satisfaction and discharge of this Indenture and any additional conditions or limitations to discharge with respect to Securities of the series pursuant to Article VIII or any modifications of or deletions from those conditions or limitations;

(16) any deletions or modifications of or additions to the Events of Default set forth in Section 6.01 or covenants of the Company set forth in Article IV pertaining to the Securities of the series;

(17) any restrictions or other provisions with respect to the transfer or exchange of Securities of the series, which may amend, supplement, modify or supersede those contained in this Article II;

(18) if the Securities of the series are to be convertible into or exchangeable for Capital Stock, other debt securities (including Securities), warrants, other equity securities or any other securities or property of the Company or any other Person, at the option of the Company or the Holder or on the occurrence of any condition or event, the terms and conditions for that conversion or exchange;

(19) if the Securities of the series are to be entitled to the benefit of Section 4.03(b) (and accordingly constitute Rule 144A Securities), that fact; and

(20) any other terms of the series (which terms shall not be prohibited by the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 2.03) set forth, or determined in the manner provided, in the Officers' Certificate or Company Order referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of that action together with that Board Resolution shall be set forth in an Officers' Certificate or certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order setting forth the terms of the series.

SECTION 2.02 *Denominations*

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 2.01. In the absence of any such provisions with respect to the Securities of any series, the Securities of that series denominated in Dollars shall be issuable in denominations of \$1,000 and any integral multiples thereof.

The Securities of each series shall be in fully registered form and in substantially the form or forms (including temporary or permanent global form) established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto. The Securities may have notations, legends or endorsements required by law, securities exchange rule, the Company's articles of incorporation, by-laws or other similar governing documents, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). A copy of the Board Resolution establishing the form or forms of Securities of any series shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 2.04 for the authentication and delivery of those Securities.

The definitive Securities of each series shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the Officers executing those Securities, as evidenced by their execution thereof.

The Trustee's certificate of authentication shall be in substantially the following form:

"This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

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

By: _____
Authorized Signatory".

SECTION 2.04 *Execution, Authentication, Delivery and Dating*

Two Officers of the Company shall sign the Securities of each series on behalf of the Company by manual or facsimile signature.

If an Officer of the Company whose signature is on a Security no longer holds that office at the time the Security is authenticated, the Security shall be valid nevertheless.

A Security shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of an authorized signatory of the Trustee, which signature shall be conclusive evidence that the Security has been authenticated under this Indenture. Notwithstanding the foregoing, if any Security has been authenticated and delivered hereunder but never issued and sold by the Company, and the Company delivers that Security to the Trustee for cancellation as provided in Section 2.13, together with a written statement (which need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture that Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, and the Trustee shall authenticate and deliver those Securities for original issue on a Company Order for the authentication and delivery of those Securities. That order shall specify the amount of the Securities to be authenticated, the date on which the original issue of Securities is to be authenticated, the name or names of the initial Holder or Holders and any other terms of the Securities of that series not otherwise determined. If provided for in those procedures, that Company Order may authorize (1) authentication and delivery of Securities of that series for original issue from time to time, with certain terms (including the Maturity date or dates, original issue date or dates and interest rate or rates) that differ from Security to Security and (2) may authorize authentication and delivery pursuant to oral or electronic instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing.

If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.01, in authenticating those Securities, and accepting the additional responsibilities under this Indenture in relation to those Securities, the Trustee shall be entitled to receive (in addition to the Company Order referred to above and the other documents required by Section 10.04), and (subject to Section 7.01) shall be fully protected in relying on,

(a) an Officers' Certificate setting forth the Board Resolution and, if applicable, an appropriate record of any action taken pursuant thereto, as contemplated by the last paragraph of Section 2.01; and

(b) an Opinion of Counsel to the effect that:

(i) if the form of those Securities has been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such form has been established in conformity with the provisions of this Indenture;

(ii) if the terms of those Securities have been established by or pursuant to Board Resolution, as is permitted by Section 2.01, that such terms have been established in conformity with the provisions of this Indenture; and

(iii) those Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in that Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer or other similar laws in effect from time to time affecting the rights of creditors generally, and the application of general principles of equity (regardless of whether that enforceability is considered in a proceeding in equity or at law).

If all the Securities of any series are not to be issued at one time, it shall not be necessary to deliver an Officers' Certificate and Opinion of Counsel at the time of issuance of each such Security, but that Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first Security of the series to be issued.

The Trustee shall not be required to authenticate those Securities if the issuance of those Securities pursuant to this Indenture would affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner not reasonably acceptable to the Trustee.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. Unless limited by the terms of that appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by that agent. An authenticating agent has the same rights as an Agent to deal with the Company or an Affiliate of the Company.

Each Security shall be dated the date of its authentication.

SECTION 2.05 *Registrar and Paying Agent*

The Company shall maintain an office or agency for each series of Securities where Securities of that series may be presented for registration of transfer or exchange ("Registrar") and an office or agency where Securities of that series may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Securities of that series and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to that Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. The Company may change any Paying Agent or Registrar without notice to any Holder. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any Subsidiary may act as Paying Agent or Registrar.

The Company initially appoints the Trustee as Registrar and Paying Agent.

SECTION 2.06 *Paying Agent to Hold Money in Trust*

With respect to each series of Securities, the Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders of Securities of that series or the Trustee all money held by the Paying Agent for the payment of principal of, premium (if any) or interest on, or any Additional Amounts with respect to, Securities of that series and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon payment over to the Trustee and upon accounting for any funds disbursed, the Paying Agent (if other than the Company or a Subsidiary of the Company) shall have no further liability for the money. If the Company or a Subsidiary of the Company acts as Paying Agent with respect to a series of Securities, it shall segregate and hold in a separate trust fund for the benefit of the Holders of Securities of that series all money held by it as Paying Agent. Each Paying Agent shall otherwise comply with TIA § 317(b).

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of each series of Securities and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar with respect to a series of Securities, the Company shall furnish to the Trustee at least five Business Days before each Interest Payment Date with respect to that series of Securities, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of the Securities of that series, and the Company shall otherwise comply with TIA § 312(a).

SECTION 2.08 *Transfer and Exchange*

Except as set forth in Section 2.17 or as may be provided pursuant to Section 2.01, when Securities of any series are presented to the Registrar with the request to register the transfer of those Securities or to exchange those Securities for an equal principal amount of Securities of the same series of like tenor and of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements and the requirements of this Indenture for those transactions are met; provided, however, that the Securities presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Company and the Registrar duly executed by the Holder thereof or by such Holder's attorney, duly authorized in writing, on which instruction the Registrar can rely.

To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Securities at the Registrar's written request and submission of the Securities (or Global Securities). No service charge shall be made to a Holder for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable on exchanges pursuant to Section 2.12, 3.07 or 9.05). The Trustee shall authenticate Securities in accordance with the provisions of Section 2.04. Notwithstanding any other provisions of this Indenture to the contrary, neither the Company nor the Trustee shall be required to register the transfer or exchange of (a) any Security selected for redemption in whole or in part pursuant to Article III, except the unredeemed portion of any Security being redeemed in part or (b) any Security during the period beginning 15 Business Days before the mailing of notice of any offer to repurchase Securities of the series required pursuant to the terms thereof or of redemption of Securities of a series to be redeemed and ending at the close of business on the date of mailing.

The transferor of any Security shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including any cost-basis reporting obligations under Section 6045 of the Internal Revenue Code of 1986, as amended. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information. In connection with any proposed exchange of a certificated Security for a Global Security, the Company or the Depositary shall be required to provide or cause to be provided to the Trustee all information reasonably available to the Company or the Depositary, as applicable, that is necessary to allow the Trustee to comply with any applicable tax reporting obligations, including any cost-basis reporting obligations under Section 6045 of the Internal Revenue Code of 1986, as amended. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

None of the Trustee nor any Paying Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among Depositary participants, members or beneficial owners in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 2.09 *Replacement Securities*

If any mutilated Security is surrendered to the Trustee, or if the Holder of a Security claims that the Security has been destroyed, lost or stolen and the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of that Security, the Company shall issue and the Trustee shall authenticate a replacement Security of the same series if the Trustee's requirements are met. If any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay that Security. The Holder must furnish an indemnity bond that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent or any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company.

SECTION 2.10 *Outstanding Securities*

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee hereunder and those described in this Section 2.10 as not outstanding.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

SECTION 2.11 *Original Issue Discount, Foreign-Currency Denominated and Treasury Securities*

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, amendment, supplement, waiver or consent, (a) the principal amount of an Original Issue Discount Security shall be the principal amount thereof that would be due and payable as of the date of that determination upon acceleration of the Maturity thereof pursuant to Section 6.02, (b) the principal amount of a Security denominated in a foreign currency shall be the Dollar equivalent, as determined by the Company by reference to the noon buying rate in The City of New York for cable transfers for that currency, as that rate is certified for customs purposes by the Federal Reserve Bank of New York (the "Exchange Rate") on the date of original issuance of that Security, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent, as determined by the Company by reference to the Exchange Rate on the date of original issuance of that Security, of the amount determined as provided in (a) above), of that Security and (c) Securities owned by the Company or any other obligor on the Securities or any Affiliate of the Company or of that other obligor shall be disregarded, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, amendment, supplement, waiver or consent, only Securities that a Responsible Officer actually knows are so owned shall be so disregarded.

SECTION 2.12 *Temporary Securities*

Until definitive Securities of any series are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities, but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.13 *Cancellation*

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment or redemption or for credit against any sinking fund payment. The Trustee shall cancel all Securities surrendered for registration of transfer, exchange, payment, redemption, replacement or cancellation or for credit against any sinking fund. The Trustee shall provide confirmation of cancellation upon written request from the Company. All canceled Securities held by the Trustee shall be disposed of in accordance with the usual disposal procedures of the Trustee, and the Trustee shall maintain a record of their disposal. The Company may not issue new Securities to replace Securities that have been paid or that have been delivered to the Trustee for cancellation, except as otherwise provided for herein.

Unless otherwise provided as contemplated by Section 2.01 with respect to the Securities of any series, interest (except defaulted interest) on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Persons who are registered Holders of that Security at the close of business on the record date next preceding that Interest Payment Date, even if those Securities are canceled after that record date and on or before that Interest Payment Date. The Holder must surrender a Security to a Paying Agent to collect principal amounts. Unless otherwise provided with respect to the Securities of any series, the Company will pay the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities in Dollars. Those amounts shall be payable at the offices of the Trustee or any Paying Agent, provided that at the option of the Company, the Company may pay those amounts (1) by wire transfer with respect to Global Securities or (2) by check payable in that money mailed to a Holder's registered address with respect to any Securities.

If the Company defaults in a payment of interest on the Securities of any series, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest on the defaulted interest, in each case at the rate provided in the Securities of that series and in Section 4.01. The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. At least 15 days before any special record date selected by the Company, the Company (or the Trustee, in the name of and at the expense of the Company upon 20 days' prior written notice from the Company setting forth that record date and the interest amount to be paid) shall mail to Holders of any such series of Securities a notice that states the special record date, the related payment date and the amount of that interest to be paid.

SECTION 2.15

Persons Deemed Owners

The Company, the Trustee, any Agent and any authenticating agent may treat the Person in whose name any Security is registered as the owner of that Security for the purpose of receiving payments of principal of, premium (if any) or interest on, or any Additional Amounts with respect to that Security and for all other purposes. None of the Company, the Trustee, any Agent or any authenticating agent shall be affected by any notice to the contrary.

SECTION 2.16

Computation of Interest

Except as otherwise specified as contemplated by Section 2.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year of 360 days comprising twelve 30-day months.

If Securities of a series are issuable in global form as a Global Security, as contemplated by Section 2.01, then, notwithstanding clause (10) of Section 2.01 and the provisions of Section 2.02, any such Global Security shall represent those of the outstanding Securities of that series as shall be specified therein and may provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, transfers or redemptions. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of outstanding Securities represented thereby shall be made by the Trustee (i) in such manner and upon instructions given by such Person or Persons as shall be specified in that Security or in a Company Order to be delivered to the Trustee pursuant to Section 2.04 or (ii) otherwise in accordance with written instructions or such other written form of instructions as is customary for the Depository for that Security, from that Depository or its nominee on behalf of any Person having a beneficial interest in that Global Security. Subject to the provisions of Section 2.04 and, if applicable, Section 2.12, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon instructions given by the Person or Persons specified in that Security or in the applicable Company Order. With respect to the Securities of any series that are represented by a Global Security, the Company authorizes the execution and delivery by the Trustee of a letter of representations or other similar agreement or instrument in the form customarily provided for by the Depository appointed with respect to that Global Security. Any Global Security may be deposited with the Depository or its nominee, or may remain in the custody of the Trustee or the Security Custodian therefor pursuant to a FAST Balance Certificate Agreement or similar agreement between the Trustee and the Depository. If a Company Order has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel.

Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository, or the Trustee or the Security Custodian as its custodian, or under that Global Security, and the Depository may be treated by the Company, the Trustee, the Agents or the Security Custodian and any agent of the Company, the Trustee, the Agents or the Security Custodian as the absolute owner of that Global Security for all purposes whatsoever. Notwithstanding the foregoing, (i) the registered holder of a Global Security of any series may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action that a Holder of Securities of that series is entitled to take under this Indenture or the Securities of that series and (ii) nothing herein shall prevent the Company, the Trustee, the Agents or the Security Custodian, or any agent of the Company, the Trustee, the Agents or the Security Custodian, from giving effect to any written certification, proxy or other authorization furnished by the Depository or shall impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Security.

Notwithstanding Section 2.08, and except as otherwise provided pursuant to Section 2.01, transfers of a Global Security shall be limited to transfers of that Global Security in whole, but not in part, to the Depositary, its successors or their respective nominees. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depositary. Securities of any series shall be transferred to all beneficial owners of a Global Security of that series in exchange for their beneficial interests in that Global Security if, and only if, either (1) the Depositary notifies the Company that it is unwilling or unable to continue as Depositary for that Global Security and a successor Depositary is not appointed by the Company within 90 days of that notice, (2) an Event of Default has occurred with respect to that series and is continuing and the Registrar has received a request from the Depositary to issue Securities of that series in lieu of all or a portion of that Global Security (in which case the Company shall deliver Securities of that series within 30 days of that request) or (3) the Company determines not to have the Securities of that series represented by a Global Security.

In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.17, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Global Security in an amount equal to the principal amount of the beneficial interests in the Global Security to be transferred, and the Company shall execute, and the Trustee on receipt of a Company Order for the authentication and delivery of Securities shall authenticate and deliver, one or more Securities of the same series of like tenor and amount.

In connection with the transfer of all the beneficial interests in a Global Security of any series to beneficial owners pursuant to this Section 2.17, the Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depositary in exchange for its beneficial interests in the Global Security, an equal aggregate principal amount of Securities of that series of authorized denominations.

None of the Company, the Trustee or any Agent will have any responsibility or liability for any acts or omissions of the Depositary with respect to any Global Security, for any aspect of the records relating to, or payments made on account of, Securities by the Depositary, including records in respect of beneficial ownership interests in respect of any such Global Security, for any transactions between the Depositary and any participant or between or among the Depositary, any such participant and/or any holder or owner of a beneficial interest in such Global Security, or for any transfers of beneficial interests in any such Global Security or for maintaining, supervising or reviewing any records of the Depositary relating to those Securities. None of the Company, the Trustee nor any Agent shall be liable for any delay by the related Global Security Holder or the Depositary in identifying the beneficial owners, and each such Person may conclusively rely on, and shall be protected in relying on, instructions from that Global Security Holder or the Depositary for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of the Securities to be issued).

None of the Company, the Trustee or any Agent shall have any responsibility or obligation to any beneficial owner in a Global Security, or participant or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant, with respect to any ownership interest in the Securities or with respect to the delivery to any participant, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders under the Securities and this Indenture shall be given or made only to or upon the order of the registered holders (which shall be the Depository or its nominee in the case of the Global Security). The rights of beneficial owners in the Global Security shall be exercised only through the Depository subject to the Applicable Procedures. The Trustee and the Agents shall be entitled to rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners. The Trustee and the Agents shall be entitled to deal with the Depository, and any nominee thereof, that is the registered holder of any Global Security for all purposes of this Indenture relating to such Global Security (including the payment of principal, premium, if any, and interest and additional amounts, if any, and the giving of instructions or directions by or to the owner or holder of a beneficial ownership interest in such Global Security) as the sole holder of such Global Security and shall have no obligations to the beneficial owners thereof.

The provisions of the last sentence of the third paragraph of Section 2.04 shall apply to any Global Security if that Global Security was never issued and sold by the Company and the Company delivers to the Trustee the Global Security together with written instructions (which need not comply with Section 10.05 and need not be accompanied by an Opinion of Counsel) with regard to the cancellation or reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of the third paragraph of Section 2.04.

Notwithstanding the provisions of Sections 2.03 and 2.14, unless otherwise specified as contemplated by Section 2.01 with respect to Securities of any series, payment of principal of, premium (if any) and interest on, and any Additional Amounts with respect to, any Global Security shall be made to the Person or Persons specified therein.

SECTION 2.18 *CUSIP Numbers*

The Company in issuing the Securities of any series may use “CUSIP”, “ISIN” or other similar numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP”, “ISIN” or other similar numbers in notices of redemption as a convenience to Holders of Securities of such series; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities of such series or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities of such series, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the “CUSIP”, “ISIN” or other similar numbers of any series.

ARTICLE III
REDEMPTION

SECTION 3.01 *Applicability of Article*

Securities of any series that are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 2.01 for Securities of any series) in accordance with this Article III.

If the Company elects to redeem Securities of any series pursuant to this Indenture, it shall notify the Trustee of the Redemption Date and the principal amount of Securities of that series to be redeemed. The Company shall so notify the Trustee at least three Business Days before sending a notice of such redemption (unless a shorter notice shall be satisfactory to the Trustee) by delivering to the Trustee an Officers' Certificate stating that the redemption will comply with the provisions of this Indenture and of the Securities of that series. Any such notice may be canceled at any time prior to the mailing of that notice of redemption to any Holder of the Securities of that series and shall thereupon be void and of no effect. A redemption or notice thereof may be subject to one or more conditions.

SECTION 3.03

Selection of Securities to Be Redeemed

If less than all the Securities of any series are to be redeemed (unless all of the Securities of that series of a specified tenor are to be redeemed), the particular Securities of that series to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the outstanding Securities of that series (and tenor) not previously called for redemption, either pro rata, by lot or by such other method as the Trustee shall deem fair and appropriate in accordance with industry standards at the time of such redemption (which redemption, in the case of any Securities represented by a Global Security, shall be in accordance with the applicable procedures of the Depository, if any). That redemption may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of that series of a denomination larger than the minimum authorized denomination for Securities of that series or of the principal amount of Global Securities of that series; *provided* that, if at the time of redemption such Securities are represented by a Global Security, the Depository shall be responsible for determining, in accordance with its procedures, the principal amount of interests in such Global Security held by each beneficial owner of Securities to be redeemed.

Except in the case of any Securities represented by a Global Security, the Trustee shall promptly notify the Company and the Registrar in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed, except in the case of any Securities represented by a Global Security, in which case such notice shall be given promptly upon request by the Company.

For purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Securities of any series shall relate, in the case of any of the Securities redeemed or to be redeemed only in part, to the portion of the principal amount thereof that has been or is to be redeemed.

SECTION 3.04

Notice of Redemption

Notice of redemption shall be given by first-class mail, postage prepaid, (or in accordance with the rules and procedures of the Depository) not less than 30 days (or not less than 15 days in the case of convertible Securities) nor more than 60 days prior to the Redemption Date, to each Holder of Securities of a series to be redeemed, at the address of that Holder appearing in the register of Securities for that series maintained by the Registrar.

All notices of redemption shall identify the Securities to be redeemed and shall state:

- (1) the name of the Securities, including the series, issue date, CUSIP number (if any), interest rate, maturity date and certificate numbers;

- (2) the amount of the Securities being redeemed;
- (3) the Redemption Date;
- (4) the Redemption Price (or the method of calculating or determining the Redemption Price);
- (5) that, unless the Company defaults in making the redemption payment, interest on Securities called for redemption ceases to accrue on and after the Redemption Date, and the only remaining right of the Holders of those Securities is to receive payment of the Redemption Price on surrender to the Paying Agent of the Securities redeemed;
- (6) if any Security is to be redeemed in part, the portion of the principal amount thereof to be redeemed and that on and after the Redemption Date, on surrender for cancellation of that Security to the Paying Agent, a new Security or Securities in the aggregate principal amount equal to the unredeemed portion thereof will be issued without charge to the Holder;
- (7) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price and the name and address of the Paying Agent;
- (8) that the redemption is for a sinking or analogous fund, if that is the case;
- (9) if the Securities being redeemed are convertible into or exchangeable for Capital Stock, other debt securities (including Securities) or any other securities or property of the Company or any other Person, the name and address of the conversion or exchange agent, the date on which the right to convert or exchange is terminated and the conversion or exchange rate;
- (10) if the redemption or notice thereof is subject to one or more conditions, a statement to that effect and the condition or conditions precedent; and
- (11) the address of the Trustee, as provided in Section 10.02, for presentment of the Securities.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given: (i) by the Company or (ii) at the Company's written request, by the Trustee in the name and at the expense of the Company; provided, however, that the Company shall have delivered to the Trustee, at least three Business Days prior to the date of the giving of the notice of redemption (or such shorter period as is acceptable to the Trustee), an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in the notice as provided in the immediately preceding paragraph.

Once notice of redemption is given, unless the redemption or notice thereof is subject to one or more conditions (as specified in the notice of redemption), Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price, and any failure to give notice or defect in notice shall not affect the validity of other notices properly given. Upon surrender to the Paying Agent, those Securities called for redemption shall be paid at the Redemption Price, but interest installments whose maturity is on or prior to that Redemption Date will be payable on the relevant Interest Payment Dates to the Holders of record at the close of business on the relevant record dates specified pursuant to Section 2.01.

SECTION 3.06

Deposit of Redemption Price

By 11:00 a.m., New York City time, on any Redemption Date, the Company shall deposit with the Trustee or the Paying Agent (or, if the Company is acting as the Paying Agent, segregate and hold in trust as provided in Section 2.06) an amount of money in same day funds sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on and any Additional Amounts with respect to, the Securities or portions thereof that are to be redeemed on that date, other than Securities or portions thereof called for redemption on that date that have been delivered by the Company to the Trustee for cancellation.

If the Company complies with the immediately preceding paragraph, then, unless the Company defaults in the payment of that Redemption Price, interest on the Securities to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not those Securities are presented for payment, and the Holders of those Securities shall have no further rights with respect to those Securities except for the right to receive the Redemption Price on surrender of those Securities. If any Security called for redemption shall not be so paid on surrender thereof for redemption, the principal of and premium, if any, any Additional Amounts, and, to the extent lawful, accrued interest thereon shall, until paid, bear interest from the Redemption Date at the rate specified pursuant to Section 2.01 or provided in the Securities or, in the case of Original Issue Discount Securities, their initial yield to maturity.

SECTION 3.07

Securities Redeemed or Purchased in Part

Upon surrender to the Paying Agent of a Security to be redeemed in part, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of that Security without service charge a new Security or Securities, of the same series and of any authorized denomination as requested by that Holder in aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Security so surrendered that is not redeemed.

SECTION 3.08

Purchase of Securities

Unless otherwise specified as contemplated by Section 2.01, the Company and any Affiliate of the Company may, subject to applicable law, at any time purchase or otherwise acquire Securities in the open market or by private agreement. Any such acquisition shall not operate as or be deemed for any purpose to be a redemption of the indebtedness represented by those Securities. Any Securities purchased or acquired by the Company may be delivered to the Trustee for cancellation and, on that delivery, the indebtedness represented thereby shall be deemed to be satisfied. Section 2.13 shall apply to all Securities so delivered.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of the minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” Unless otherwise provided by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.10. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of that series and by this Article III.

SECTION 3.10

Satisfaction of Sinking Fund Payments with Securities

The Company may deliver outstanding Securities of a series (other than any previously called for redemption) and may apply as a credit Securities of a series that have been redeemed either at the election of the Company pursuant to the terms of those Securities or through the application of permitted optional sinking fund payments pursuant to the terms of those Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of that series required to be made pursuant to the terms of that series of Securities; provided that those Securities have not been previously so credited. Those Securities shall be received and credited for that purpose by the Trustee at the Redemption Price specified in those Securities for redemption through operation of the sinking fund, and the amount of that sinking fund payment shall be reduced accordingly.

SECTION 3.11

Redemption of Securities for Sinking Fund

Not less than 45 days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, that is to be satisfied by payment of cash and the portion thereof, if any, that is to be satisfied by delivery of or by crediting Securities of that series pursuant to Section 3.10 and will also deliver or cause to be delivered to the Trustee any Securities to be so delivered. Failure of the Company to timely deliver or cause to be delivered that Officers' Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute the election of the Company (i) that the mandatory sinking fund payment for that series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of that series in respect thereof and (ii) that the Company will make no optional sinking fund payment with respect to that series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$100,000 (or the Dollar equivalent thereof based on the applicable Exchange Rate on the date of original issue of the applicable Securities) or a lesser sum if the Company shall so request with respect to the Securities of any particular series, that cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of that series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If that amount shall be \$100,000 (or the Dollar equivalent thereof as aforesaid) or less and the Company makes no such request, then it shall be carried over until a sum in excess of \$100,000 (or the Dollar equivalent thereof as aforesaid) is available. Not less than 30 days before each such sinking fund payment date, the Trustee shall select the Securities to be redeemed on that sinking fund payment date in the manner specified in Section 3.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.04. That notice having been duly given, the redemption of those Securities shall be made on the terms and in the manner stated in Sections 3.05, 3.06 and 3.07.

SECTION 4.01 *Payment of Securities*

The Company shall pay the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of each series on the dates and in the manner provided in the Securities of that series and in this Indenture. Principal, premium, interest and any Additional Amounts shall be considered paid on the date due if the Paying Agent, other than the Company or a Subsidiary of the Company, holds on that date money deposited by the Company designated for and sufficient to pay all principal, premium (if any), interest and any Additional Amounts then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal of and premium (if any) on Securities of any series, at a rate equal to the then applicable interest rate on the Securities of that series to the extent lawful; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest on and any overdue payments of Additional Amounts with respect to Securities of that series (without regard to any applicable grace period) at the same rate to the extent lawful.

SECTION 4.02 *Maintenance of Office or Agency*

The Company will maintain in each Place of Payment for any series of Securities an office or agency (which may be an office of the Trustee, the Registrar or the Paying Agent) where Securities of that series may be presented for registration of transfer or exchange, where Securities of that series may be presented for payment and where notices and demands to or on the Company in respect of the Securities of that series and this Indenture may be delivered. Unless otherwise designated by the Company by written notice to the Trustee, that office or agency shall be the office of the Trustee specified in Section 10.02. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of that office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, those presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all those purposes and may from time to time rescind those designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for those purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

(a) If the Company is subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall file with the Trustee, within 15 days after it files the same with the SEC, copies of the annual reports and the information, documents and other reports (or copies of those portions of any of the foregoing as the SEC may by rules and regulations prescribe) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. If this Indenture is qualified under the TIA, but not otherwise, the Company shall also comply with the provisions of TIA § 314(a). Delivery of such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt thereof shall not constitute actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates or certificates delivered pursuant to Section 4.04).

(b) If the Company is not subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall furnish to all Holders of Rule 144A Securities and prospective purchasers of Rule 144A Securities designated by the Holders of Rule 144A Securities, promptly on their request, the information required to be delivered pursuant to Rule 144A(d)(4) promulgated under the Securities Act of 1933, as amended.

(c) The Company intends to file the reports, information and documents referred to in Section 4.03(a) with the SEC in electronic form pursuant to Regulation S-T promulgated by the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The Company shall notify the Trustee in the manner prescribed herein of each such filing and the location thereof in reasonable detail. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the reports so filed. Compliance with the foregoing shall constitute delivery by the Company of such reports to the Trustee in compliance with the provisions of TIA § 314(a). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of the reports, information and documents to the Trustee pursuant to this Section 4.03 shall be solely for the purposes of compliance with this Section 4.03 and with TIA § 314(a). Delivery of such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt thereof shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates or certificates delivered pursuant to Section 4.04).

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company, a statement signed by an Officer of the Company, which need not constitute an Officers' Certificate, complying with TIA § 314(a)(4) and stating that, in the course of performance by the signing Officer of the Company of such Officer's duties as such Officer of the Company, such Officer would normally obtain knowledge of the keeping, observing, performing and fulfilling by the Company of its obligations under this Indenture, and further stating that, to the best of such Officer's knowledge, the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which that Officer may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) The Company shall, so long as Securities of any series are outstanding, deliver to the Trustee, promptly and in any event within five Business Days after the Company becomes aware of the occurrence of any Default or Event of Default under this Indenture, an Officers' Certificate specifying that Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

SECTION 4.05

Existence

Subject to Article V, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

SECTION 4.06

Waiver of Stay, Extension or Usury Laws

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist on, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or interest on the Securities as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) the Company hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 4.07

Additional Amounts

If the Securities of a series expressly provide for the payment of Additional Amounts, the Company will pay to the Holder of any Security of that series Additional Amounts as expressly provided therein. Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium or interest on, or in respect of, any Security of any series or the net proceeds received from the sale or exchange of any Security of any series, that mention shall be deemed to include mention of the payment of Additional Amounts provided for in this Section 4.07 to the extent that, in that context, Additional Amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section 4.07, and express mention of the payment of Additional Amounts (if applicable) in any provisions hereof shall not be construed as excluding Additional Amounts in those provisions hereof where that express mention is not made.

Unless otherwise provided pursuant to Section 2.01 with respect to Securities of any series, if the Securities of a series provide for the payment of Additional Amounts, at least ten days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to Maturity, the first day on which a payment of principal and any premium is made), and at least ten days prior to each date of payment of principal and any premium or interest if there has been any change with respect to the matters set forth in the below-mentioned Officers' Certificate, the Company shall furnish the Trustee and the Company's principal Paying Agent or Paying Agents, if other than the Trustee, with an Officers' Certificate instructing the Trustee and such Paying Agent or Paying Agents whether that payment of principal of and any premium or interest on the Securities of that series shall be made to Holders of Securities of that series who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding shall be required, then that Officers' Certificate shall specify by country the amount, if any, required to be withheld on those payments to those Holders of Securities, and the Company will pay to that Paying Agent the Additional Amounts required by this Section. The Company covenants to indemnify the Trustee and any Paying Agent for and to hold them harmless against any loss, liability or expense reasonably incurred without gross negligence or willful misconduct on their part arising out of or in connection with the Company's failure to pay Additional Amounts and remit any withheld amounts to the proper governmental authority.

The Trustee shall not at any time be under any duty or responsibility to any Holder of Securities to determine the Additional Amounts, or with respect to the nature, extent, or calculation of the amount of Additional Amounts owed, or with respect to the method employed in such calculation of the Additional Amounts.

ARTICLE V SUCCESSORS

SECTION 5.01 *Limitations on Mergers, Consolidations and Other Transactions*

The Company shall not, in any transaction or series of related transactions, consolidate with, or merge into (or amalgamate with), any other Person, or sell, lease, convey, transfer or otherwise dispose of substantially all of its assets as an entirety to any Person, unless:

(1) either (a) the Company shall be the continuing Person or (b) the Person (if other than the Company) formed by that consolidation (or amalgamation) or into which the Company is merged, or to which that sale, lease, conveyance, transfer or other disposition shall be made (collectively, the "Successor"), expressly assumes by supplemental indenture the due and punctual payment of the principal of, premium (if any) and interest on, and Additional Amounts with respect to, all the Securities and the performance and observance of the Company's covenants and obligations under this Indenture and the Securities;

(2) immediately after giving effect to that transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger (or amalgamation), sale, lease, conveyance, transfer or other disposition and such supplemental indenture comply with this Indenture and that the conditions precedent, if any, herein provided for relating to such transaction have been complied with.

SECTION 5.02 *Successor Person Substituted*

Upon any consolidation, amalgamation or merger of the Company or any sale, lease, conveyance, transfer or other disposition of substantially all of the assets of the Company as an entirety in accordance with Section 5.01, any Successor formed by that consolidation or into or with which the Company is merged or to which that sale, lease, conveyance, transfer or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture and the Securities with the same effect as if that Successor had been named as the Company herein and the predecessor Company, in the case of a sale, conveyance, transfer or other disposition, shall be released from all obligations under this Indenture and the Securities.

ARTICLE VI
DEFAULTS AND REMEDIES

SECTION 6.01 *Events of Default*

Unless either inapplicable to a particular series or specifically deleted or modified in or pursuant to the supplemental indenture or Board Resolution establishing that series of Securities or in the form of Security for that series, an "Event of Default," wherever used herein with respect to Securities of any series, occurs if:

(1) the Company defaults in the payment of interest on or any Additional Amounts with respect to any Security of that series when the same becomes due and payable and that default continues for a period of 30 days;

(2) the Company defaults in the payment of (A) the principal of any Security of that series at its Maturity or (B) premium (if any) on any Security of that series when the same becomes due and payable;

(3) the Company defaults in the deposit of any mandatory sinking fund payment, when and as due by the terms of a Security of that series, and that default continues for a period of 30 days;

(4) the Company fails to comply with any of its other covenants or agreements in, or provisions of, the Securities of that series or this Indenture (other than an agreement, covenant or provision that has expressly been included in this Indenture solely for the benefit of one or more series of Securities other than that series) that shall not have been remedied within the specified period after written notice, as specified in the last paragraph of this Section 6.01;

- (5) the Company pursuant to or within the meaning of any Bankruptcy Law:
 - (A) commences a voluntary case,
 - (B) consents to the entry of an order for relief against it in an involuntary case,
 - (C) consents to the appointment of a Bankruptcy Custodian of it or for all or substantially all of its property, or
 - (D) makes a general assignment for the benefit of its creditors;
- (6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that remains unstayed and in effect for 90 days and that:
 - (A) is for relief against the Company as debtor in an involuntary case,
 - (B) appoints a Bankruptcy Custodian of the Company or a Bankruptcy Custodian for all or substantially all of the property of the Company, or
 - (C) orders the liquidation of the Company; or
- (7) any other Event of Default provided with respect to Securities of that series occurs.

The term "Bankruptcy Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

The Trustee shall not be deemed to know or have notice of any Default or Event of Default, except failure to receive any payments required to be made by the Company to the Trustee, unless the Company or the Holders of at least 25% in the aggregate principal amount of the Securities give written notice of any event that is in fact such a Default or Event of Default, and such notice is received by the Trustee at the Corporate Trust Office of the Trustee and references the Securities and this Indenture. In the absence of such notice, the Trustee may conclusively assume no default exists.

When a Default or Event of Default is cured, it ceases.

Notwithstanding the foregoing provisions of this Section 6.01, if the principal of, premium (if any) or interest on, or Additional Amounts with respect to, any Security is payable in a currency or currencies (including a composite currency) other than Dollars and such currency or currencies are not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company (a "Conversion Event"), the Company will be entitled to satisfy its obligations to Holders of the Securities by making that payment in Dollars in an amount equal to the Dollar equivalent of the amount payable in such other currency, as determined by the Company by reference to the Exchange Rate on the date of that payment, or, if that rate is not then available, on the basis of the most recently available Exchange Rate. Notwithstanding the foregoing provisions of this Section 6.01, any payment made under such circumstances in Dollars where the required payment is in a currency other than Dollars will not constitute an Event of Default under this Indenture.

Promptly after the occurrence of a Conversion Event, the Company shall give written notice thereof to the Trustee; and the Trustee, promptly after receipt of that notice, shall give notice thereof in the manner provided in Section 10.02 to the Holders. Promptly after the making of any payment in Dollars as a result of a Conversion Event, the Company shall give notice in the manner provided in Section 10.02 to the Holders, setting forth the applicable Exchange Rate and describing the calculation of those payments.

A Default under clause (4) or (7) of this Section 6.01 is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that Default (or, in the case of a Default under clause (4) of this Section 6.01, if outstanding Securities of other series are affected by that Default, then at least 25% in principal amount of the then outstanding Securities so affected) notify the Company and the Trustee, of the Default, and the Company fails to cure the Default within 90 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "Notice of Default."

SECTION 6.02 *Acceleration*

If an Event of Default with respect to any Securities of any series at the time outstanding (other than an Event of Default specified in clause (5) or (6) of Section 6.01) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of the series affected by that Event of Default (or, in the case of an Event of Default described in clause (4) of Section 6.01, if outstanding Securities of other series are affected by that Event of Default, then at least 25% in principal amount of the then outstanding Securities so affected) by notice to the Company and the Trustee, may declare the principal of (or, if any of those Securities are Original Issue Discount Securities, that portion of the principal amount as may be specified in the terms of that series) and all accrued and unpaid interest on all then outstanding Securities of that series or of all series, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on those Securities shall be due and payable immediately. If an Event of Default specified in clause (5) or (6) of Section 6.01 occurs, those amounts shall ipso facto become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. The Holders of a majority in principal amount of the then outstanding Securities of the series affected by that Event of Default or all series so affected, as the case may be, by written notice to the Trustee may rescind an acceleration and its consequences (other than nonpayment of principal of, premium or interest on, or any Additional Amounts with respect to, the Securities) if the rescission would not conflict with any judgment or decree and if all existing Events of Default with respect to Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that has become due solely because of the acceleration.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, or premium (if any) or interest on, the Securities of that series or to enforce the performance of any provision of the Securities of that series or this Indenture.

The Trustee may maintain a proceeding with respect to Securities of any series even if it does not possess any of the Securities of that series or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing on an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 6.04 *Waiver of Defaults*

Subject to Sections 6.07 and 9.02, the Holders of a majority in principal amount of the then outstanding Securities of any series or of all series affected thereby (acting as one class) by written notice to the Trustee may waive an existing or past Default or Event of Default with respect to that series or all series so affected, as the case may be, and its consequences (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or all series so affected or a solicitation of consents in respect of Securities of that series or all series so affected, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series or all series so affected (but the terms of that offer or solicitation may vary from series to series)), except (1) a continuing Default or Event of Default in the payment of the principal of, premium (if any) or interest on, or any Additional Amounts with respect to, any Security or (2) a continued Default in respect of a provision that under Section 9.02 cannot be amended or supplemented without the consent of each Holder affected; *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Securities may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, that Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 6.05 *Control by Majority*

With respect to Securities of any series, the Holders of a majority in principal amount of the then outstanding Securities of that series may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it relating to or arising under an Event of Default described in clause (1), (2), (3) or (7) of Section 6.01, and with respect to all Securities, the Holders of a majority in principal amount of all the then outstanding Securities affected may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it not relating to or arising under such an Event of Default. However, the Trustee may refuse to follow any direction that conflicts with applicable law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders or that may involve the Trustee in personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with that direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification and/or security satisfactory to the Trustee in its sole discretion from Holders directing the Trustee against all losses and expenses caused by taking or not taking that action.

Subject to Section 6.07, a Holder of a Security of any series may pursue a remedy with respect to this Indenture or the Securities of that series only if:

- (1) the Holder gives to the Trustee written notice of a continuing Event of Default with respect to that series;
- (2) the Holders of at least 25% in principal amount of the then outstanding Securities of that series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity and/or security reasonably satisfactory to the Trustee in its sole discretion against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity and/or security; and
- (5) during that 60-day period, the Holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such use by a Holder prejudices the rights of any other Holders or obtains priority or preference over such other Holders).

SECTION 6.07 *Rights of Holders to Receive Payment*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of principal of, premium (if any) and interest on, and any Additional Amounts with respect to, that Security, on or after the respective due dates expressed in that Security, or to bring suit for the enforcement of any such payment on or after those respective dates, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

If an Event of Default specified in clause (1) or (2) of Section 6.01 occurs and is continuing with respect to Securities of any series, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the amount of principal, premium (if any), interest and any Additional Amounts remaining unpaid on the Securities of that series, and interest on overdue principal and premium, if any, and, to the extent lawful, interest on overdue interest, and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09

Trustee May File Proofs of Claim

The Trustee is authorized to file such proofs of claim and other papers or documents and to take such actions, including participating as a member, voting or otherwise, of any committee of creditors, as may be necessary or advisable to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceeding relative to the Company or its creditors or properties and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any Bankruptcy Custodian in any such judicial proceeding is hereby authorized by each Holder to make those payments to the Trustee, and in the event that the Trustee shall consent to the making of those payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders of the Securities may be entitled to receive in that proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10

Priorities

If the Trustee collects any money or property pursuant to this Article VI or, after an Event of Default, any money or property is distributable in respect of the Company's obligations under this Indenture, such money or property shall be paid out in the following order:

First: to the Trustee (including any predecessor Trustee) for amounts due under Section 7.07;

Second: to Holders for amounts due and unpaid on the Securities in respect of which or for the benefit of which that money has been collected, for principal, premium (if any), interest and any Additional Amounts ratably, without preference or priority of any kind, according to the amounts due and payable on those Securities for principal, premium (if any), interest and any Additional Amounts, respectively; and

Third: to the Company.

The Trustee, on prior written notice to the Company, may fix record dates and payment dates for any payment to Holders pursuant to this Article VI.

To the fullest extent allowed under applicable law, if for the purpose of obtaining a judgment against the Company in any court it is necessary to convert the sum due in respect of the principal of, premium (if any) or interest on, or Additional Amounts with respect to, the Securities of any series (the "Required Currency") into a currency in which a judgment will be rendered (the "Judgment Currency"), the rate of exchange used for purposes of rendering the judgment shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the New York Business Day next preceding that on which final judgment is given. Neither the Company nor the Trustee shall be liable for any shortfall nor shall it benefit from any windfall in payments to Holders of Securities under this Section 6.10 caused by a change in exchange rates between the time the amount of a judgment against it is calculated as above and the time the Trustee converts the Judgment Currency into the Required Currency to make payments under this Section 6.10 to Holders of Securities, but payment of that judgment shall discharge all amounts owed by the Company on the claim or claims underlying that judgment.

SECTION 6.11 *Undertaking for Costs*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by a Holder or Holders of more than 10% in principal amount of the then outstanding Securities of any series.

ARTICLE VII
TRUSTEE

SECTION 7.01 *Duties of Trustee*

(a) If an Event of Default with respect to the Securities of any series has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture with respect to the Securities of that series, and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default with respect to the Securities of any series:

(1) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts, statements, opinions or conclusions stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of Sections 7.01(b) and 7.01(e);

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to the provisions of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights and powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. Any money received by the Trustee with respect to Securities of any series shall, until applied as herein provided, be held in trust for payment of the principal of, premium (if any) and interest on, and Additional Amounts with respect to, the Securities of that series.

Subject to the provisions of Section 7.01:

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting on any resolution, certificate, statement, instrument, opinion, notice, report, request, direction, consent, order, bond, debenture, note or other evidence of indebtedness or other papers or documents (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate and/or an Opinion of Counsel. The Trustee may consult with counsel selected by it and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel.

(c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(d) The Trustee shall not be liable for any action it takes, suffers or omits to take in good faith which it believes to be authorized or within its rights or powers conferred on it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficiently evidenced by a Company Order or a Company Request and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, report, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other papers or documents, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine during normal business hours the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company, and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(g) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including loss of profit) even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(j) The Trustee may request that the Company deliver to the Trustee a certificate setting forth the names of individuals and titles of Officers of the Company authorized at such time to take specified actions pursuant to this Indenture of the Company and the Securities, which certificate may be signed by any Person authorized to sign an Officers' Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(k) Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to the documents upon the request or authority or consent of any Person, who, at the time of making such request or giving such authority or consent, is the Holder of any Securities shall be conclusive and binding upon all future Holders of such Securities and upon Securities executed and delivered in exchange therefor or in place thereof.

(l) Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Securities.

(m) The Trustee shall not be deemed to have notice or be charged with knowledge of any Default or Event of Default unless written notice of such Default or Event of Default from the Company or any Holder is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

(n) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders, pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee security and/or indemnity satisfactory to the Trustee in its sole discretion against the costs, expenses and liabilities which may be incurred therein or thereby.

(o) In order to comply with applicable tax laws, rules and regulations (inclusive of directives, guidelines and interpretations promulgated by competent authorities) in effect from time to time ("Applicable Tax Law") a foreign financial institution, issuer, trustee, paying agent, holder or other institution is or has agreed to be subject to related to this Indenture, the Company agrees (i) to provide to the Trustee sufficient information about holders or other applicable parties and/or transactions (including any modification to the terms of such transactions) that is within the possession of the Company so the Trustee can determine whether it has tax related obligations under Applicable Tax Law, (ii) that the Trustee shall be entitled to make any withholding or deduction from payments under the Indenture to the extent necessary to comply with Applicable Tax Law for which the Trustee shall not have any liability, and (iii) to hold harmless the Trustee for any losses it may suffer due to the actions it takes to comply with such Applicable Tax Law. The terms of this clause (o) shall survive the termination of this Indenture.

SECTION 7.03 *May Hold Securities*

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.10 and 7.11.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities. The Trustee and any authenticating agent shall not be accountable for the Company's use of the proceeds from the Securities or any money paid to the Company or upon the Company's direction under any provision hereof. The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee or any authenticating agent assumes no responsibility for their correctness. The Trustee shall not be responsible to make any calculation with respect to any matter under this Indenture. The Trustee shall have no duty to monitor or investigate the Company's compliance with or the breach of, or cause to be performed or observed, any representation, warranty, or covenant, or agreement of any Person, other than the Trustee, made in this Indenture.

SECTION 7.05

Notice of Defaults

If a Default or Event of Default with respect to the Securities of any series occurs and is continuing and it is known to the Trustee as provided in Section 6.01, the Trustee shall mail to Holders of Securities of that series a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium (if any) and interest on, and Additional Amounts or any sinking fund installment with respect to, the Securities of that series, the Trustee may withhold the notice if and so long as the board of directors, the executive committee or a trust committee of directors of the Trustee or Responsible Officers in good faith determines that withholding the notice is in the interests of Holders of Securities of that series.

SECTION 7.06

Reports by Trustee to Holders

Within 60 days after each anniversary of the date of the execution of this Indenture, the Trustee shall mail to Holders of a series and the Company a brief report dated as of that reporting date that complies with TIA § 313(a); provided, however, that if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date with respect to a series, no report need be transmitted to Holders of that series. The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports if and as required by TIA §§ 313(c) and 313(d).

A copy of each report at the time of its mailing to Holders of a series of Securities shall be filed by the Company with the SEC and each securities exchange, if any, on which the Securities of that series are listed. The Company shall notify the Trustee if and when any series of Securities is listed on any securities exchange.

SECTION 7.07

Compensation and Indemnity

The Company agrees:

(a) to pay to the Trustee from time to time such reasonable compensation as shall from time to time be agreed in writing between the parties for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its gross negligence or willful misconduct; and

(c) to indemnify the Trustee and its officers, agents, directors and employees for, and to defend, protect and hold them harmless against, any and all loss, liability, damage, claims or expense, including fees and expenses of counsel and court costs, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee) incurred without gross negligence or willful misconduct on its part, arising out of or in connection with this Indenture, the Securities, the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense of such claim. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section to compensate the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder.

Without limiting any rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 6.01(5) or Section 6.01(6), the expenses (including the reasonable charges and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any applicable Bankruptcy Law.

As security for the performance of the obligations of the Company under this Section the Trustee shall have a lien prior to the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of (and premium, if any) or interest or Additional Amounts on particular Securities.

“Trustee” for purposes of this Section shall include any predecessor Trustee; provided, however, that the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

The provisions of this Section shall survive the satisfaction and discharge of this Indenture and the defeasance of the Securities, the termination for any reason of this Indenture and the resignation or removal of the Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only on the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign and be discharged at any time with respect to the Securities of one or more series by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Securities of any series may remove the Trustee with respect to the Securities of that series upon 30 days' prior notice by so notifying the Trustee and the Company. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a Bankruptcy Custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, with respect to the Securities of one or more series, the Company shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of those series and that at any time there shall be only one Trustee with respect to the Securities of any particular series). Within one year after the successor Trustee with respect to the Securities of any series takes office, the Holders of a majority in principal amount of the Securities of that series then outstanding may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee with respect to the Securities of any series does not take office within 45 days after the retiring or removed Trustee resigns or is removed, the retiring or removed Trustee (at the Company's expense), the Company or the Holders of at least 10% in principal amount of the then outstanding Securities of that series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of that series.

If the Trustee with respect to the Securities of a series fails to comply with Section 7.10, any Holder of Securities of that series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to the Securities of that series.

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee, upon payment of its charges and reimbursement of its expenses (including reasonable fees and expenses of counsel and agents), shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

In case of the appointment of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more (but not all) series shall execute and deliver an indenture supplemental hereto in which each successor Trustee shall accept that appointment and that (1) shall confer to each successor Trustee all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall confirm that all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee. Nothing herein or in that supplemental indenture shall constitute those Trustees co-trustees of the same trust, and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of that supplemental indenture, the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, and each such successor Trustee shall have all the rights, powers and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates. On the request of the Company or any successor Trustee, that retiring Trustee shall transfer to that successor Trustee all property held by that retiring Trustee as Trustee with respect to the Securities of that or those series to which the appointment of that successor Trustee relates.

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.08, the obligations of the Company under Section 7.07 shall continue for the benefit of the retiring Trustee or Trustees.

SECTION 7.09 *Successor Trustee by Merger, etc.*

Subject to Section 7.10, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another Person, the successor corporation without any further act shall be the successor Trustee; provided, however, that in the case of a transfer of all or substantially all of its corporate trust business to another Person, the transferee Person expressly assumes all of the Trustee's liabilities hereunder.

In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to that authenticating Trustee may adopt that authentication and deliver the Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate those Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all those cases those certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have.

There shall at all times be a Trustee hereunder that shall be a corporation or banking or trust company or association organized and doing business under the laws of the United States, any State thereof or the District of Columbia and authorized under those laws to exercise corporate trust power, shall be subject to supervision or examination by Federal or State (or the District of Columbia) authority and shall have, or be a Subsidiary of a bank or bank holding company having, a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

The Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), 310(a)(2) and 310(a)(5). The Trustee is subject to and shall comply with the provisions of TIA § 310(b) during the period of time required by this Indenture. For purposes of Section 310(b)(1) of the TIA and to the extent permitted thereby, the Trustee, in its capacity as Trustee in respect of the Securities of any series, shall not be deemed to have a conflicting interest arising from its capacity as trustee in respect of the Securities of any other series or any securities of any series issued under the following indentures: the Indenture, dated as of November 1, 2016 (the "2016 Indenture"), between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee; the First Supplemental Indenture to the 2016 Indenture, dated as of November 1, 2016, between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee; the Second Supplemental Indenture to the 2016 Indenture, dated as of March 20, 2018, between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee. Nothing in this Indenture shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA § 310(b).

The Trustee is subject to and shall comply with the provisions of TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

SECTION 8.01 *Termination of the Company's Obligations*

(a) This Indenture shall cease to be of further effect with respect to the Securities of a series (except as to any surviving rights of conversion or of registration of transfer or exchange of Securities expressly provided for herein and except that the Company's obligations under Section 7.07, the Trustee's and Paying Agent's obligations under Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of that series, when:

(1) either

(A) all outstanding Securities of that series theretofore authenticated and issued (other than destroyed, lost or stolen Securities that have been replaced or paid) have been delivered to the Trustee for cancellation; or

(B) all outstanding Securities of that series not theretofore delivered to the Trustee for cancellation:

(i) have become due and payable (including by reason of the giving of a notice of redemption pursuant to Section 3.04),

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and, in the case of clause (i), (ii) or (iii) above, the Company has irrevocably deposited or caused to be deposited with the Trustee as funds (immediately available to the Holders in the case of clause (i)) in trust for that purpose (x) money in the currency in which payment of the Securities of that series is to be made in an amount, (y) Government Obligations with respect to that series maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of that series is to be made in an amount or (z) a combination thereof that will be sufficient, without reinvestment, in the opinion (in the case of clauses (y) and (z)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on the Securities of that series for principal, any premium, any interest and any Additional Amounts to the date of that deposit (in the case of Securities that have become due and payable) or for principal, premium (if any), interest and any Additional Amounts to the Stated Maturity or Redemption Date, as the case may be; or

(C) the Company has properly fulfilled such other means of satisfaction and discharge as is specified, as contemplated by Section 2.01, to be applicable to the Securities of that series;

(2) the Company has paid or caused to be paid all other sums payable by it hereunder with respect to the Securities of that series; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with.

(b) Unless this Section 8.01(b) is specified as not being applicable to Securities of a series as contemplated by Section 2.01, the Company may terminate certain of its obligations under this Indenture (“covenant defeasance”) with respect to the Securities of a series if:

(1) the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of that series, (i) money in the currency in which payment of the Securities of that series is to be made in an amount, (ii) Government Obligations with respect to that series maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of that series is to be made in an amount or (iii) a combination thereof that is sufficient, without reinvestment, in the opinion (in the case of clauses (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay, without consideration of the reinvestment of any such amounts and after payment of all taxes or other charges or assessments in respect thereof payable by the Trustee, the principal of, premium (if any) and interest on, and any Additional Amounts with respect to, all Securities of that series on each date that such principal, premium (if any), interest or Additional Amounts are due and payable and (at the Stated Maturity thereof or on redemption as provided in Section 8.01(e)) to pay all other sums payable by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply that money or the proceeds of those Government Obligations to the payment of said principal, premium (if any), interest and Additional Amounts with respect to the Securities of that series as the same shall become due;

(2) the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel each stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of that series have been complied with;

(3) no Default or Event of Default with respect to the Securities of that series shall have occurred and be continuing on the date of that deposit;

(4) the Company shall have delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee confirming that the Holders of Securities of that series will not recognize income, gain or loss for Federal income tax purposes as a result of the Company’s exercise of its option under this Section 8.01(b) and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if that option had not been exercised;

(5) the Company has complied with any additional conditions specified pursuant to Section 2.01 to be applicable to the discharge of Securities of that series pursuant to this Section 8.01; and

(6) that deposit and discharge shall not cause the Trustee to have a conflicting interest as defined in TIA § 310(b).

In that event, this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on demand of the Company, shall execute such instruments reasonably requested by the Company acknowledging satisfaction and discharge under this Indenture. However, the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 4.01, 4.02, 5.01, 7.07, 7.08 and 8.04, the Trustee's and Paying Agent's obligations in Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of that series are no longer outstanding. Thereafter, only the Company's obligations in Section 7.07 and the Trustee's and Paying Agent's obligations in Section 8.03 shall survive with respect to Securities of that series.

After making the irrevocable deposit pursuant to this Section 8.01(b) and following satisfaction of the other conditions set forth herein, the Trustee on request shall acknowledge in writing the discharge of the Company's obligations under this Indenture with respect to the Securities of that series, except for those surviving obligations specified above.

In order to have money available on a payment date to pay principal of, premium (if any) or interest on, or any Additional Amounts with respect to, the Securities, the Government Obligations shall be payable as to principal or interest on or before that payment date in such amounts as will provide the necessary money. Any such Government Obligations shall not be callable at the issuer's option.

(c) If the Company has previously complied or is concurrently complying with Section 8.01(b) (other than any additional conditions specified pursuant to Section 2.01 that are expressly applicable only to covenant defeasance) with respect to Securities of a series, then, unless this Section 8.01(c) is specified as not being applicable to Securities of that series as contemplated by Section 2.01, the Company may elect to be discharged ("legal defeasance") from its obligations to make payments with respect to Securities of that series, if:

(1) no Default or Event of Default under clauses (5) and (6) of Section 6.01 shall have occurred at any time during the period ending on the 91st day after the date of deposit contemplated by Section 8.01(b) (it being understood that this condition shall not be deemed satisfied until the expiration of that period);

(2) unless otherwise specified with respect to Securities of that series as contemplated by Section 2.01, the Company has delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee to the effect referred to in Section 8.01(b)(4) with respect to that legal defeasance, which opinion is based on (i) a private ruling of the Internal Revenue Service addressed to the Company, (ii) a published ruling of the Internal Revenue Service or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture;

(3) the Company has complied with any other conditions specified pursuant to Section 2.01 to be applicable to the legal defeasance of Securities of that series pursuant to this Section 8.01(c); and

(4) the Company has delivered to the Trustee a Company Request requesting legal defeasance of the Securities of that series and an Officers' Certificate stating that all conditions precedent with respect to legal defeasance of the Securities of that series have been complied with, together with an Opinion of Counsel to the same effect.

In that event, the Company will be discharged from its obligations under this Indenture and the Securities of that series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of that series, the Company's obligations under Sections 4.01, 4.02 and 5.01 shall terminate with respect to those Securities, and the entire indebtedness of the Company evidenced by those Securities shall be deemed paid and discharged.

(d) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a series are specified to be applicable to that series as contemplated by Section 2.01, the Company may terminate any or all of its obligations under this Indenture with respect to Securities of a series and any or all of its obligations under the Securities of that series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.01, to be applicable to the Securities of that series.

(e) If Securities of any series subject to subsections (a), (b), (c) or (d) of this Section 8.01 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for that redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

SECTION 8.02 *Application of Trust Money*

The Trustee or a trustee satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.01. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of, premium (if any) and interest on, and any Additional Amounts with respect to, the Securities of the series with respect to which the deposit was made.

SECTION 8.03 *Repayment to Company*

The Trustee and the Paying Agent shall promptly pay to the Company at any time on the written request of the Company any excess money or Government Obligations (or proceeds therefrom) held by them.

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company on written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remain unclaimed for two years after the date on which that payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to that money shall cease.

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any series in accordance with Section 8.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting that application, the obligations of the Company under this Indenture with respect to the Securities of that series and under the Securities of that series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.01; provided, however, that if the Company has made any payment of principal of, premium (if any) or interest on, or any Additional Amounts with respect to, any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of those Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

SECTION 8.05 *Government Obligations*

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to this Article VIII or the principal and interest received in respect thereof other than any such tax, fee or other charge that by law is for the account of the Holders of outstanding Securities.

ARTICLE IX
SUPPLEMENTAL INDENTURES AND AMENDMENTS

SECTION 9.01 *Without Consent of Holders*

The Company and the Trustee may amend or supplement this Indenture or the Securities or waive any provision hereof or thereof without the consent of any Holder:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Section 5.01;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities, or to provide for the issuance of bearer Securities (with or without coupons);
- (4) to provide any security for any series of Securities or to add guarantees of or additional obligors on any series of Securities;
- (5) to comply with any requirement in order to effect or maintain the qualification of this Indenture under the TIA;
- (6) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if those covenants are to be for the benefit of less than all series of Securities, stating that those covenants are expressly being included solely for the benefit of that series), or to surrender any right or power herein conferred on the Company;

(7) to add any additional Events of Default with respect to all or any series of the Securities (and, if any such Event of Default is applicable to less than all series of Securities, specifying the series to which that Event of Default is applicable);

(8) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no outstanding Security of any series created prior to the execution of that amendment or supplemental indenture that is adversely affected in any material respect by that change in or elimination of that provision; *provided, further*, that any change made to conform the provisions of this Indenture to the description of any Security in a prospectus or prospectus supplement or an offering memorandum or related term sheet used in connection with the offering and sale by the Company of such Security will not be deemed to adversely affect any Security of any series in any material respect;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.01;

(10) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 8.01; provided, however, that any such action shall not adversely affect the interest of the Holders of Securities of that series or any other series of Securities in any material respect; or

(11) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 7.08.

Upon the request of the Company, accompanied by a Board Resolution, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and make any further appropriate agreements and stipulations that may be therein contained.

SECTION 9.02 *With Consent of Holders*

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture with the written consent (including consents obtained in connection with a tender offer or exchange offer for Securities of any one or more series or all series or a solicitation of consents in respect of Securities of any one or more series or all series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of each such series (but the terms of that offer or solicitation may vary from series to series)) of the Holders of at least a majority in principal amount of the then outstanding Securities of all series affected by that amendment or supplement (acting as one class).

Upon the request of the Company, accompanied by a Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company in the execution of that amendment or supplemental indenture.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if that consent approves the substance thereof.

The Holders of a majority in principal amount of the then outstanding Securities of one or more series or of all series affected (acting as one class) may waive compliance in a particular instance by the Company with any provision of this Indenture with respect to Securities of that series (including waivers obtained in connection with a tender offer or exchange offer for Securities of that series or a solicitation of consents in respect of Securities of that series, provided that in each case that offer or solicitation is made to all Holders of then outstanding Securities of that series (but the terms of that offer or solicitation may vary from series to series)).

However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not:

- (1) reduce the amount of Securities whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest, including default interest, on any Security;
- (3) reduce the principal of, any premium on or any mandatory sinking fund payment with respect to, or change the Stated Maturity of, any Security or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable on a declaration of acceleration of the Maturity thereof pursuant to Section 6.02;
- (4) reduce the premium (if any) payable on the redemption of any Security or change the time at which any Security may or shall be redeemed;
- (5) change any obligation of the Company to pay Additional Amounts with respect to any Security;
- (6) change the coin or currency or currencies (including composite currencies) in which any Security or any premium, interest or Additional Amounts with respect thereto are payable;
- (7) impair the right to institute suit for the enforcement of any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to, any Security pursuant to Sections 6.07 and 6.08, except as limited by Section 6.06;

(8) make any change in the percentage of principal amount of Securities necessary to waive compliance with certain provisions of this Indenture pursuant to Section 6.04 or 6.07 or make any change in this sentence of Section 9.02; or

(9) waive a continuing Default or Event of Default in the payment of principal of, premium (if any) or interest on, or Additional Amounts with respect to, the Securities.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture that has expressly been included solely for the benefit of one or more particular series of Securities, or that modifies the rights of the Holders of Securities of that series with respect to that covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

The right of any Holder to participate in any consent required or sought pursuant to any provision of this Indenture (and the obligation of the Company to obtain any such consent otherwise required from that Holder) may be subject to the requirement that such Holder shall have been the Holder of record of any Securities with respect to which that consent is required or sought as of a date identified by the Company in a notice furnished to Holders in accordance with the terms of this Indenture.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of each Security affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail that notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

SECTION 9.03 *Compliance with Trust Indenture Act*

Every amendment or supplement to this Indenture or the Securities shall comply in form and substance with the TIA as then in effect.

SECTION 9.04 *Revocation and Effect of Consents*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to such Holder's Security or portion of a Security if the Trustee receives written notice of revocation before a date and time therefor identified by the Company in a notice furnished to such Holder in accordance with the terms of this Indenture or, if no such date and time shall be identified, the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Company may, but shall not be obligated to, fix a record date (which need not comply with Section 316(c) of the TIA) for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver or to take any other action under this Indenture. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at that record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to that amendment, supplement or waiver or to revoke any consent previously given, whether or not those Persons continue to be Holders after that record date. No consent shall be valid or effective for more than 90 days after that record date unless consents from Holders of the principal amount of Securities required hereunder for that amendment or waiver to be effective shall have also been given and not revoked within that 90-day period.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it is of the type described in any of clauses (1) through (9) of Section 9.02. In that case, the amendment, supplement or waiver shall bind each Holder who has consented to it and every subsequent Holder that evidences the same debt as the consenting Holder's Security.

SECTION 9.05 *Notation on or Exchange of Securities*

If an amendment or supplement changes the terms of an outstanding Security, the Company may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security at the request of the Company regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of that amendment or supplement.

Securities of any series authenticated and delivered after the execution of any amendment or supplement may, and shall if required by the Company, bear a notation in form approved by the Company as to any matter provided for in that amendment or supplement.

SECTION 9.06 *Trustee to Sign Amendments, etc.*

The Trustee shall sign any amendment or supplement authorized pursuant to this Article if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign it. In signing or refusing to sign any amendment or supplement, the Trustee shall receive, and, subject to Section 7.01, shall be fully protected in relying on, an Officers' Certificate and Opinion of Counsel provided at the expense of the Company stating that such amendment or supplement is authorized or permitted by this Indenture, that it is not inconsistent herewith, and that, in the case of the Opinion of Counsel, it will, subject to then customary exceptions, be valid and binding on the Company and enforceable against the Company in accordance with its terms.

ARTICLE X
MISCELLANEOUS

SECTION 10.01 *Trust Indenture Act Controls*

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by operation of TIA § 318(c), the imposed duties shall control.

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), facsimile or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Facsimile: (281) 618-0505
Attention: General Counsel

If to the Trustee:

The Bank of New York Mellon Trust Company, N.A.
2 North LaSalle Street, 7th Floor, Suite 700
Chicago, IL 60602
Facsimile: (312) 827-8522
Attention: Corporate Trust – Glen Ford

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

All notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed (except in the case of notice to the Trustee, in which case notice is duly given only when received); when receipt acknowledged, if by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder shall be mailed by first-class mail, postage prepaid, to the Holder's address shown on the register kept by the Registrar (or in accordance with the rules and procedures of the Depositary). Failure to mail (or otherwise transmit in accordance with the rules and procedures of the Depositary) a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it, except in the case of notice to the Trustee, it is duly given only when received.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

All notices or communications, including notices to the Trustee or the Company by Holders, shall be in writing, except as otherwise set forth herein.

In case by reason of the suspension of regular mail service, or by reason of any other cause, it shall be impossible to mail any notice required by this Indenture, then such method of notification as shall be made with the approval of the Trustee shall constitute a sufficient mailing of that notice.

The Trustee shall have the right, but shall not be required, to rely upon and comply with notices, instructions, directions or other communications sent by e-mail, facsimile and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company. The Trustee shall have no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorized to give instructions or directions on behalf of the Company; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company as a result of such reliance upon or compliance with such notices, instructions, directions or other communications. The Company agrees to assume all risks arising out of the use of such electronic methods to submit notices, instructions, directions or other communications to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties. The Company shall use all reasonable endeavors to ensure that any such notices, instructions, directions or other communications transmitted to the Trustee pursuant to this Indenture are complete and correct. Any such notices, instructions, directions or other communications shall be conclusively deemed to be valid instructions from the Company to the Trustee for the purposes of this Indenture.

SECTION 10.03 *Communication by Holders with Other Holders*

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

SECTION 10.04 *Certificate and Opinion as to Conditions Precedent*

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee at the expense of the Company the following as required by the TIA:

- (1) an Officers' Certificate (which shall include the statements set forth in Section 10.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and
- (2) an Opinion of Counsel (which shall include the statements set forth in Section 10.05) stating that, in the opinion of that counsel, all those conditions precedent or covenants have been complied with.

SECTION 10.05 *Statements Required in Certificate or Opinion*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 4.04) shall comply with the provisions of TIA § 314(e) and shall include:

- (1) a statement that the Person making that certificate or opinion has read that covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation on which the statements or opinions contained in that certificate or opinion are based;
- (3) a statement that, in the opinion of that Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not that covenant or condition has been complied with; and
- (4) a statement as to whether or not, in the opinion of that Person, that condition or covenant has been complied with.

SECTION 10.06 *Rules by Trustee and Agents*

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or the Paying Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 10.07 *Legal Holidays*

If a payment date is a Legal Holiday at a Place of Payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

SECTION 10.08 *No Recourse Against Others*

A director, officer, employee, shareholder, partner or other owner of the Company or the Trustee, as such, shall not have any liability for any obligations of the Company under the Securities or for any obligations of the Company or the Trustee under this Indenture or for any claim based on, in respect of or by reason of those obligations or their creation. Each Holder by accepting a Security waives and releases all that liability. The waiver and release shall be part of the consideration for the issue of Securities.

SECTION 10.09 *Governing Law; Submission to Jurisdiction*

THIS INDENTURE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

THE COMPANY IRREVOCABLY CONSENTS AND SUBMITS, TO THE FULLEST EXTENT PERMITTED BY LAW, FOR ITSELF AND IN RESPECT OF ANY OF ITS ASSETS OR PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF ANY COURT OF THE STATE OF NEW YORK OR ANY UNITED STATES FEDERAL COURT SITTING, IN EACH CASE, IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK, NEW YORK, UNITED STATES OF AMERICA, AND ANY APPELLATE COURT FROM ANY THEREOF IN ANY SUIT, ACTION OR PROCEEDING THAT MAY BE BROUGHT IN CONNECTION WITH THIS INDENTURE OR THE SECURITIES, AND WAIVES ANY IMMUNITY FROM THE JURISDICTION OF SUCH COURTS. THE COMPANY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION TO ANY SUCH SUIT, ACTION OR PROCEEDING THAT MAY BE BROUGHT IN SUCH COURTS WHETHER ON THE GROUNDS OF VENUE, RESIDENCE OR DOMICILE OR ON THE GROUND THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE COMPANY AGREES, TO THE FULLEST EXTENT THAT IT LAWFULLY MAY DO SO, THAT FINAL JUDGMENT IN ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT SHALL BE CONCLUSIVE AND BINDING UPON THE COMPANY, AND WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION TO THE ENFORCEMENT BY ANY COMPETENT COURT IN THE COMPANY'S JURISDICTION OF ORGANIZATION OF JUDGMENTS VALIDLY OBTAINED IN ANY SUCH COURT IN NEW YORK ON THE BASIS OF SUCH SUIT, ACTION OR PROCEEDING.

SECTION 10.10 *Waiver of Jury Trial*

EACH OF THE COMPANY AND THE TRUSTEE, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 10.11 *Force Majeure*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 10.12 *No Adverse Interpretation of Other Agreements*

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or any Subsidiary. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 10.13 *Successors*

All agreements of the Company in this Indenture and the Securities shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 10.14 *Severability*

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall, to the fullest extent permitted by applicable law, not in any way be affected or impaired thereby.

SECTION 10.15 *Counterpart Originals*

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes.

The words "execution," "executed," "signed," "signature," and words of like import in this Indenture shall include images of manually executed signatures transmitted by facsimile, email or other electronic format (including, without limitation, "pdf," "tif" or "jpg") and other electronic signatures using DocuSign and Adobe Sign. The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Without limitation to the foregoing, and anything in this Indenture to the contrary notwithstanding, (a) any Officers' Certificate, Company Order, Opinion of Counsel, Security, certificate of authentication appearing on or attached to any Security or any other certificate, instrument, agreement or other document delivered pursuant to this Indenture may be executed, attested and transmitted by any of the foregoing electronic means and formats and (b) all references in Section 2.04 or elsewhere in the Indenture to the execution, attestation or authentication of any Security or any certificate of authentication appearing on or attached to any Security by means of a manual or facsimile signature shall be deemed to include signatures that are made or transmitted by any of the foregoing electronic means or formats.

The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof. References in this Indenture to the terms "Article" or "Section" are references to the Articles and Sections of this Indenture, unless otherwise specified, and the terms "hereof," "herein," "hereby," "hereto" and derivative or similar words refer to this entire Indenture, taken as a whole.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief
Financial Officer

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Trustee

By: /s/ Julie Hoffman-Ramos
Name: Julie Hoffman-Ramos
Title: Vice President

[Signature Page to Base Indenture]

HELIX ENERGY SOLUTIONS GROUP, INC.

6.75% Convertible Senior Notes Due 2026

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 14, 2020

to the

BASE INDENTURE

Dated as of August 14, 2020

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

TRUSTEE

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Exhibits:

Exhibit A – Form of Global Note

Exhibit B – Form of Certificated Note

Exhibit C – Form of Notice of Redemption

Exhibit D – Notice of Occurrence of Fundamental Change

Exhibit E – Form of Conversion Notice

FIRST SUPPLEMENTAL INDENTURE (this “**Supplemental Indenture**”), dated as of August 14, 2020 between HELIX ENERGY SOLUTIONS GROUP, INC., a Minnesota corporation (the “**Company**”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, as trustee (the “**Trustee**”).

RECITALS

WHEREAS, the Company has entered into an Indenture, dated as of August 14, 2020 (the “**Base Indenture**”), with the Trustee;

WHEREAS, pursuant to Sections 2.01, 2.03 and 9.01(9) of the Base Indenture, the form and terms of a new series of Securities may at any time be established by a supplemental indenture executed by the Company and the Trustee, without the consent of Holders;

WHEREAS, the Base Indenture, as supplemented by this Supplemental Indenture, is herein called the “**Indenture**”;

WHEREAS, the Company proposes to create under the Indenture a new series of Securities;

WHEREAS, the Company has requested and hereby requests that the Trustee execute and deliver this Supplemental Indenture and the Company has provided the Trustee with a Board Resolution authorizing the execution of and approving this Supplemental Indenture;

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make it a valid and binding obligation of the Company have been done or performed; and

WHEREAS, pursuant to Section 9.01 of the Base Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture;

NOW, THEREFORE, for and in consideration of the agreements and obligations set forth herein and for other good and valuable consideration the sufficiency of which is hereby acknowledged, each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below), as follows:

ARTICLE 1 ESTABLISHMENT OF NEW SERIES

Section 1.01 *Establishment of New Series.*

(a) There is hereby established a new series of Securities to be issued under the Indenture, designated as the Company’s 6.75% Convertible Senior Notes Due 2026 (the “**Notes**”)

(b) There are to be authenticated and delivered \$200,000,000 principal amount of Notes on the Issue Date, and from time to time thereafter, there may be authenticated and delivered an unlimited principal amount of Additional Notes.

(c) The Notes shall be issued initially in the form of one or more Global Notes in substantially the form attached as **Exhibit A** hereto. The Depository with respect to the Notes shall be The Depository Trust Company.

(d) Each Note shall be dated the date of authentication hereof and shall bear interest as provided in paragraph 1 of the form of Global Note attached as **Exhibit A** hereto.

Section 1.02 Interpretation; Scope of Supplemental Indenture; Suppression of Base Indenture.

(a) The amendments to the Base Indenture made by this Supplemental Indenture will apply solely with respect to the Notes and not with respect to any other class or series of Securities. For purposes of the Notes, if and to the extent that the provisions of the Base Indenture are duplicative of, or in contradiction with, the provisions of this Supplemental Indenture, the provisions of this Supplemental Indenture shall govern.

(b) Without limiting Section 1.02(a) above, for purposes of the Notes,

(i) The first two sentences of the third paragraph of Section 2.08 of the Base Indenture will not apply to the Notes;

(ii) Article III of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Article 4 of this Supplemental Indenture;

(iii) Section 4.07 of the Base Indenture and the concept of "Additional Amounts" in the Base Indenture will not apply to the Notes;

(iv) Article V of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Article 6 of this Supplemental Indenture;

(v) Sections 6.01 (other than the third paragraph of Section 6.01) through 6.03, inclusive, of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Sections 7.01 through 7.03, inclusive, of this Supplemental Indenture; and

(vi) Article VIII of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Section 8.03 of this Supplemental Indenture; and

(vii) Sections 9.01 and 9.02 of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Sections 8.01 and 8.02 of this Supplemental Indenture; and

(viii) Section 10.10 of the Base Indenture will not apply to the Notes and will instead be deemed to be replaced with Section 10.11 of this Supplemental Indenture.

Section 2.01 Definitions.

All capitalized terms used herein and not otherwise defined below shall have the meanings ascribed to them in the Base Indenture. The following are additional definitions used in the Supplemental Indenture:

“**Bid Solicitation Agent**” means the agent of the Company appointed to obtain quotations for the Notes as set forth under the definition of Trading Price. The Company will act as the initial Bid Solicitation Agent. The Company may, from time to time, change the Bid Solicitation Agent.

“**Capital Stock**” for any corporation means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that corporation.

“**Certificated Notes**” means Notes that are in the form of the Notes attached hereto as **Exhibit B**.

“**Change of Control**” shall be deemed to have occurred at such time as:

(1) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) other than the Company, its wholly owned Subsidiaries and its and their employee benefit plans, files a Schedule TO or any schedule, form or report with the SEC that discloses that such person or group has become the “beneficial owner” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, of fifty percent (50%) or more of the Company’s Voting Stock;

(2) (a) there occurs a sale, transfer, lease, conveyance or other disposition of all or substantially all of the consolidated property or assets of the Company to any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), including any group acting for the purpose of acquiring, holding, voting or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, other than one of the Company’s wholly owned Subsidiaries; or (b) the Company consolidates with, or merges, or combines pursuant to a binding statutory share exchange, with or into, another Person or any Person consolidates with, or merges, or combines pursuant to a binding statutory share exchange, with or into, the Company, or any other transaction or series of transactions (other than changes resulting solely from a subdivision or combination of the outstanding Common Stock) occurs pursuant to which the Common Stock would be converted into or exchanged for, or would constitute solely the right to receive, cash, securities or other property, including any combination thereof; *provided, however*, that (i) a transaction described in clause (b) above in which the Persons that “beneficially owned” (as such term is used in Rule 13d-3 under the Exchange Act), directly or indirectly, the shares of the Company’s Voting Stock immediately prior to such transaction, “beneficially own,” directly or indirectly, immediately after such a consolidation, merger or binding statutory share exchange, shares of the surviving or continuing corporation’s Voting Stock representing at least a majority of the total outstanding voting power of all outstanding classes of the Voting Stock of the surviving or continuing corporation (or its parent entity) in substantially the same proportion as such ownership immediately prior to such a consolidation, merger or binding statutory share exchange will not constitute a Change of Control pursuant to this clause (2) (such a consolidation, merger, combination or binding statutory share exchange described in this proviso, a “**Non-Ownership Change of Control**”); and (ii) a transaction described in clause (b) above that is effected solely to change the jurisdiction of the Company’s organization and that satisfies the proviso immediately following paragraph (3) below will not constitute a Change of Control pursuant to this clause (2); or

(3) The company is liquidated or dissolved or holders of the Company's Capital Stock approve any plan or proposal for the Company's liquidation or dissolution;

provided, however, that a transaction or event described in clauses (1) or (2) above will not constitute a Change of Control (and for the avoidance of doubt, the Company is not required to deliver the notice incidental thereto) if at least 90% of the consideration received or to be received by the holders of the Common Stock (excluding cash payments for fractional shares or pursuant to statutory dissenters' or appraisal rights), in connection with such transaction or event, consists of common equity listed (or depositary receipts representing common equity, which depositary receipts are listed) on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors), or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes a Common Stock Change Event whose Reference Property consists of such consideration.

For the purposes of this definition, any transaction or event described in both clause (1) and in clause (2)(i) or (2)(ii) above (disregarding the Non-Ownership Change of Control provision) will be deemed to occur solely pursuant to clause (2) above (subject to the Non-Ownership Change of Control provision).

The term "**close of business**" means 5:00 p.m. (New York City time).

"**Closing Sale Price**" on any date means, as determined by the Company, the per share price of the referenced security on such date, determined (i) on the basis of the closing per share sale price (or if no closing per share sale price is reported, the average of the bid and ask prices per share or, if more than one in either case, the average of the average bid prices per share and the average ask prices per share) on such date on the principal U.S. national or regional securities exchange on which shares of the referenced security are listed; or (ii) if shares of the referenced security is not listed on a U.S. national or regional securities exchange, as reported by OTC Markets Group Inc. or a similar organization; *provided, however*, that in the absence of any such report or quotation, the closing sale price shall be the price determined by a nationally recognized independent investment banking firm retained by the Company for such purpose as most accurately reflecting the per share price that a fully informed buyer, acting on his own accord, would pay to a fully informed seller, acting on his own accord, in an arms-length transaction, for a share of the referenced security.

"**Common Stock**" means the common stock, no par value, of the Company, subject to Section 9.12.

"**Conversion Date**" with respect to a Note means the date on which a Holder satisfies all the requirements for such conversion specified in Section 9.02(a).

"**Conversion Notice**" means the "Conversion Notice" attached to the Form of Note attached hereto as Exhibit E.

“**Conversion Price**” as of any date means \$1,000 *divided by* the Conversion Rate as of such date.

“**Conversion Rate**” shall initially be 143.3795 shares of Common Stock per \$1,000 principal amount of Notes, subject to adjustment as provided in Article 9.

“**Conversion Value**” means, as of any Trading Day in the Security Measurement Period, the product of the Closing Sale Price of the Common Stock and the Conversion Rate per \$1,000 principal amount of Notes in effect on such Trading Day.

“**Conversion Trigger Price**” means, as of any date of determination, the dollar amount derived by multiplying the Conversion Price in effect on such date by 130%.

“**Daily Conversion Value**” shall mean, for each of the forty (40) consecutive VWAP Trading Days in the Observation Period, one fortieth (1/40th) of the product of (i) the Conversion Rate in effect on such VWAP Trading Day and (ii) the Volume-Weighted Average Price per share of Common Stock on such VWAP Trading Day.

“**Daily Settlement Amount**” per \$1,000 principal amount of Notes to be converted will consist of the following for each of the forty (40) consecutive VWAP Trading Days in the relevant Observation Period: (x) cash equal to the lesser of (i) the applicable Specified Cash Amount per \$1,000 principal amount, *divided by* forty (40) (such quotient being referred to as the “**Daily Measurement Value**”) and (ii) the Daily Conversion Value for such VWAP Trading Day; and (y) to the extent such Daily Conversion Value for such VWAP Trading Day exceeds such Daily Measurement Value, a number of shares of Common Stock equal to (i) the difference between such Daily Conversion Value and such Daily Measurement Value, *divided by* (ii) the Volume-Weighted Average Price of the Common Stock on such VWAP Trading Day.

“**Default**” means any event that is, or after notice or passage of time, would be, an Event of Default.

“**Default Settlement Method**” means Physical Settlement. The Company may, from time to time, change the Default Settlement Method to any Settlement Method that the Company is then permitted to elect, by sending notice of the New Default Settlement Method to the Holders and the Trustee.

“**Ex-Dividend Date**” means (i) when used with respect to any issuance or distribution, means the first date on which the shares of Common Stock trade the regular way on the relevant exchange or in the relevant market from which the Closing Sale Price of the Common Stock was obtained without the right to receive such issuance or distribution from the Company or, if applicable, from the seller of Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market, (ii) when used with respect to any subdivision or combination of Common Stock, means the first date on which the shares of Common Stock trade the regular way on such exchange or in such market after the time at which such subdivision or combination becomes effective and (iii) when used with respect to any tender offer or exchange offer means the first date on which the shares of Common Stock trade the regular way on such exchange or in such market after the expiration time of such tender offer or exchange offer (as it may be amended or extended). For purposes of determining the Ex-Dividend Date with respect to an issuance or distribution under this Supplemental Indenture, unless it has knowledge to the contrary, the Company may conclusively assume (and such assumption shall be binding upon the Holders) that purchases and sales of the relevant security with respect to which such issuance or distribution is being made will settle based on the customary settlement cycle for purchases or sales of such security.

“**Fair Market Value**” or “**fair market value**” means the amount that a willing buyer would pay a willing seller in an arm’s-length transaction.

“**Fundamental Change**” means either a Change of Control or a Termination of Trading.

“**Global Note**” means a permanent Global Note in the form of the Note attached hereto as **Exhibit A**, and that is deposited with and registered in the name of the Depository.

“**Holder**” or “**Securityholder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Holder Repurchase Notice**” means a notice from Holders delivered pursuant to Section 4.07.

“**Indenture**” shall have the meaning stated in the Recitals, as amended or supplemented from time to time in accordance with the terms thereof, including the provisions of the TIA that are deemed to be a part thereof.

“**Interest**” means interest payable on each Note pursuant to Section 1 of the Notes.

“**Interest Payment Date**” means February 15 and August 15 of each year, commencing February 15, 2021 (or such other date as may be set forth in the certificate representing the applicable Note).

“**Interest Record Date**” means the close of business on February 1 and August 1 of each year.

“**Issue Date**” of any Note means the date on which the Note was originally issued or deemed issued as set forth on the face of the Note.

“**Make-Whole Premium**” means, in respect of any Notes called for a Conversion Price Trigger Redemption, the amount equal to the present value of the remaining scheduled payments of Interest that would have been made on such Notes to be redeemed had such Notes remained outstanding from the relevant Redemption Date to the Stated Maturity (excluding interest accrued to, but excluding, such Redemption Date, which shall otherwise be payable pursuant to clause (ii) of the definition of Conversion Price Trigger Redemption Price set forth in Section 4.01), with such present value of the remaining Interest payments computed using a discount rate per annum equal to the Reference Discount Rate plus 50 basis points.

“**Market Disruption Event**” means, with respect to a referenced security on any date such reference security is listed for trading or quotation on or by any exchange, bureau or other organization, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which such referenced security is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in such referenced security or in any options, contracts or futures contracts relating to such referenced security.

“**Notes**” means any of the Company’s 6.75% Convertible Senior Notes due 2026, as amended or supplemented from time to time, issued under the Indenture.

“**NYSE**” means The New York Stock Exchange, Inc.

“**Observation Period**” shall mean, (i) subject to the immediately following clause (ii), with respect to any Conversion Date occurring after the forty-fifth (45th) Scheduled Trading Day immediately preceding the Stated Maturity, the forty (40) consecutive VWAP Trading Day period beginning on, and including, the forty-first (41st) Scheduled Trading Day immediately before the Stated Maturity; (ii) with respect to any Conversion Date for a Note occurring on or after the date the Company has sent a redemption notice calling such Note for redemption and before the related Redemption Date, the forty (40) consecutive VWAP Trading Days beginning on, and including, the forty-first (41st) Scheduled Trading Day immediately before such Redemption Date; or (ii) in all other cases, the forty (40) consecutive VWAP Trading Day period beginning on, and including, the third (3rd) VWAP Trading Day immediately following the relevant Conversion Date.

“**Officer**” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President or Senior Vice President, the Treasurer, the Controller, the Chief Accounting Officer, the Secretary or any Assistant Secretary of the Company.

“**Record Date**” shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

“**Redemption Date**” means the date specified in a notice of redemption on which the Notes may be redeemed in accordance with the terms of the Notes and the Indenture.

“**Reference Discount Rate**” means, in respect of any Make-Whole Premium, the yield to maturity 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 (2) Business Days prior to the relevant 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 such Redemption Date to the Stated Maturity; *provided, however*, that if the period from such Redemption Date to the Stated Maturity is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used. Any such Reference Discount Rate shall be obtained by the Company.

“**Register**” and “**Registrar**” with respect to the Notes, refer to and have the meanings of, “Security Register” and “Security Registrar” respectively, in the Base Indenture.

“**Relevant Exchange**” means the NYSE or, if the Common Stock is not then listed on the NYSE, the principal U.S. national or regional securities exchange on which the Common Stock is listed for trading.

“**Scheduled Trading Day**” means a day that is scheduled to be a Trading Day on the primary United States national securities exchange or market on which the Common Stock is listed or admitted for trading. If the Common Stock is not so listed or admitted for trading, “**Scheduled Trading Day**” shall mean any Business Day.

“**SEC**” means the Securities and Exchange Commission.

“**Securityholder**” or “**Holder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Settlement Method**” means Physical Settlement, Cash Settlement or Combination Settlement, as applicable.

“**Special Interest**” means any interest that accrues on any Note pursuant to Section 7.04.

“**Specified Cash Amount**” means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per \$1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional share of Common Stock).

“**Stated Maturity**,” when used with respect to any Note, means February 15, 2026.

“**Subsidiary**” means any person of which at least a majority of the outstanding Voting Stock shall at the time directly or indirectly be owned or controlled by the Company or by one or more Subsidiaries or by the Company and one or more Subsidiaries.

“**Termination of Trading**” shall be deemed to occur if shares of Common Stock are not listed for trading on the NYSE, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

“**TIA**” means the Trust Indenture Act of 1939 as in effect on the date of the Indenture, *provided, however*, that in the event the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

“**Trading Day**” means, with respect to the referenced security, a day during which (i) trading in the referenced security generally occurs on the principal U.S. national or regional securities exchange on which the referenced security is then listed or, if the referenced security is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the referenced security is then traded and (ii) a Market Disruption Event has not occurred; *provided, however*, that if the referenced security is not listed for trading or quotation on or by any exchange, bureau or other organization, “**Trading Day**” shall mean any Business Day.

“**Trading Price**” means, as of any date of determination (any such date, the “**Determination Date**”), the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for \$2.0 million principal amount of Notes at approximately 3:30 p.m. (New York City time) on such Determination Date from three independent nationally recognized securities dealers the Company selects; *provided* that if the Bid Solicitation Agent can reasonably obtain only two such bids, then the average of such two bids shall instead be used, and if the Bid Solicitation Agent can reasonably obtain only one such bid, then such single bid shall be used; and *provided, further*, that if, on any Determination Date, the Bid Solicitation Agent cannot reasonably obtain at least one bid for \$2.0 million principal amount of the Notes from an independent nationally recognized securities dealer, then the Trading Price per \$1,000 principal amount of the Notes shall be deemed to be less than 97% of the Conversion Value of the Notes on such Determination Date.

“**Trustee**” means the party named as the “Trustee” in the preamble of the Indenture unless and until a successor replaces it pursuant to the applicable provisions of the Indenture and, thereafter, shall mean such successor. The foregoing sentence shall likewise apply to any subsequent such successor or successors.

“**Volume-Weighted Average Price**” per share of Common Stock on any VWAP Trading Day means such price as displayed on Bloomberg (or any successor service) page “HLX <equity> AQR” in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day, or, if such price is not available, the market value per share of Common Stock on such VWAP Trading Day as determined, using a volume-weighted average price method, by a nationally recognized investment banking firm retained for this purpose by the Company.

“**Voting Stock**” of a Person means common equity of such Person of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of such Person (irrespective of whether or not at the time common equity of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

“**VWAP Market Disruption Event**” means, with respect to any date, (i) the failure by the principal U.S. national or regional securities exchange on which the Common Stock is then listed, or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Stock is then traded, to open for trading during its regular trading session on such date; or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Relevant Exchange or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on such date.

“**VWAP Trading Day**” means a day on which (i) there is no VWAP Market Disruption Event; and (ii) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so listed or traded, then “VWAP Trading Day” means a Business Day.

Section 2.02 *Other Definitions.*

Term:	Defined in Section:
"1% Provision"	Section 9.07
"Applicable Price"	Section 9.15(d)
"Bankruptcy Law"	Section 7.01(g)
"cash"	Section 4.01
"Cash Settlement"	Section 9.02(a)
"Combination Settlement"	Section 9.02(a)
"Common Stock Change Event"	Section 9.12
"Conversion Agent"	Section 3.03
"Conversion Price Trigger Redemption"	Section 4.01
"Conversion Price Trigger Redemption Price"	Section 4.01
"Depository"	Section 3.01(b)
"Distributed Assets"	Section 9.06(c)(i)
"DTC"	Section 3.01(b)
"Effective Date"	Section 9.15(a)
"Event of Default"	Section 7.01
"Exempted Fundamental Change"	Section 4.07(l)
"Expiration Time"	Section 9.06(e)
"Fundamental Change Repurchase Date"	Section 4.07(a)
"Fundamental Change Repurchase Notice"	Section 4.07(b)
"Fundamental Change Repurchase Price"	Section 4.07(a)
"Fundamental Change Repurchase Right"	Section 4.07(a)
"Make-Whole Fundamental Change"	Section 9.15(a)
"Make-Whole Applicable Increase"	Section 9.15(b)
"Make-Whole Conversion Period"	Section 9.15(a)
"Maximum Conversion Rate"	Section 9.15(b)(v)
"Notice of Default"	Section 7.01(h)
"Physical Settlement"	Section 9.02(a)
"Reference Price"	Section 9.06(e)
"Reference Property"	Section 9.12
"Reference Property Unit"	Section 9.12
"Repurchase Upon Fundamental Change"	Section 4.07(a)
"Security Measurement Period"	Section 9.01(b)(ii)
"Spin-Off"	Section 9.06(c)(ii)
"Spin-Off Valuation Period"	Section 9.06(c)(ii)
"Successor Person"	Section 6.01(a)
"Tender/Exchange Offer Valuation Period"	Section 9.06(e)
"Trading Price Condition"	Section 9.01(b)(ii)

Section 2.03 *Incorporation by Reference of Trust Indenture Act.* Whenever the Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of the Indenture. The following TIA terms used in the Indenture have the following meanings:

"**Commission**" means the SEC.

The term "**indenture securities**" means the Notes.

The term “**indenture security holder**” means a Securityholder.

The term “**indenture to be qualified**” means the Indenture.

The term “**indenture trustee**” or “**institutional trustee**” means the Trustee.

The term “**obligor**” on the indenture securities means the Company.

All other TIA terms used in the Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rules have the meanings assigned to them by such definitions.

Section 2.04 Rules of Construction. Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles as in effect from time to time;
- (3) “or” is not exclusive;
- (4) “including” means including, without limitation;
- (5) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (6) words in the singular include the plural, and words in the plural include the singular; and
- (7) references to Sections, Articles and Exhibits are to references to Sections, Articles and Exhibits of this Supplemental Indenture.

ARTICLE 3 THE NOTES

Section 3.01 Form and Dating.

(a) *Certificate of Authentication.* The Notes and the Trustee’s certificate of authentication shall be substantially in the form of **Exhibit A** and **Exhibit B**, which are a part of the Indenture.

(b) *Global Notes in General.* All of the Notes shall be issued initially in the form of one or more Global Notes, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, at its Corporate Trust Office, as custodian for the depositary, The Depository Trust Company (“**DTC**”) (such depositary, or any successor thereto, being hereinafter referred to as the “**Depositary**”), and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided.

Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate amount of outstanding Notes from time to time endorsed thereon and that the aggregate amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions, repurchases and conversions.

Any adjustment of the aggregate principal amount of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.08 of the Base Indenture, and shall be made on the records of the Trustee and the Depository.

(c) *Book-Entry Provisions.* This Section 3.01(c) shall apply only to Global Notes deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 3.01(c), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository or a nominee thereof, (b) shall be delivered by the Trustee to the Depository or held by the Trustee pursuant to the Depository's instructions and (c) shall be substantially in the form of **Exhibit A** attached hereto.

(d) *Certificated Notes.* Notes not issued as interests in the Global Notes shall be issued in certificated form substantially in the form of **Exhibit B** attached hereto.

Section 3.02 Execution and Authentication. The Notes shall be executed and signed on behalf of the Company in accordance with Section 2.04 of the Base Indenture.

The Trustee shall authenticate and deliver the Notes for original issue in an aggregate principal amount of up to \$200,000,000 upon one or more Company Orders without any further action by the Company (other than as contemplated in Section 2.08 of the Base Indenture). The aggregate principal amount of the Notes due at the Stated Maturity thereof outstanding at any time may not exceed the amount set forth in the foregoing sentence.

The Notes shall be issued only in registered form without coupons and only in denominations of \$1,000 of principal amount and any integral multiple of \$1,000.

The Company may, from time to time, without notice to or the consent of the Holders, reopen the Indenture and issue additional Notes with the same terms (except, to the extent applicable, with respect to the date as of which interest begins to accrue on such additional Notes and the first Interest Payment Date of such additional Notes) as the Notes in an unlimited aggregate principal amount, *provided* that if the additional Notes are not fungible with the Notes offered hereby for United States Federal income tax purposes, then they must be issued with a different CUSIP number. The Notes and any such additional Notes would be treated as a single class for all purposes under the Indenture and would vote together as one class on all matters with respect to the Notes.

Section 3.03 Conversion Agent. The Company shall maintain an office or agency where Notes may be presented for conversion (“**Conversion Agent**”).

The Company shall enter into an appropriate agency agreement with any Conversion Agent. The agreement shall implement the provisions of the Indenture that relate to such agent. The Company shall promptly notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Conversion Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07 of the Base Indenture. The Company or any Subsidiary or an Affiliate of either of them may act as Conversion Agent.

The Company initially appoints the Trustee as Conversion Agent in connection with the Notes.

Section 3.04 Debt Tax Treatment. The Company, and each Holder and beneficial owner of a Note, agree to treat the Notes as indebtedness for United States federal income tax purposes.

ARTICLE 4 REDEMPTION AND REPURCHASES

Section 4.01 Company’s Right to Redeem; Notices to Trustee. Prior to August 15, 2023, the Notes shall not be redeemable at the Company’s option. The Company, at its option, may redeem (a “**Conversion Price Trigger Redemption**”) the Notes for U.S. legal tender (“**cash**”) at any time, in whole or in part, on a Redemption Date that occurs on or after August 15, 2023 (but, in the case of a partial redemption, no later than the 40th Scheduled Trading Day immediately before the Stated Maturity) if the Closing Sale Price of the Common Stock has been at least 130% of the Conversion Price then in effect on (x) the Trading Day immediately preceding the date on which the Company provides a notice of redemption under Section 4.03 and (y) for at least 20 Trading Days (whether or not consecutive) during any 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date on which the Company provides a notice of redemption in accordance with Section 4.03. The redemption price for each \$1,000 principal amount of Notes to be redeemed (the “**Conversion Price Trigger Redemption Price**”) shall be payable in cash and shall be equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, plus (ii) accrued and unpaid interest, if any, to, but excluding, the Redemption Date, plus (iii) the Make-Whole Premium. The Company must make these Make-Whole Premium payments on all Notes called for redemption prior to the Stated Maturity, including Notes subject to redemption that are converted after the date the Company delivered a notice of redemption.

If the Redemption Date occurs after an Interest Record Date and on or prior to the immediately succeeding Interest Payment Date (i) accrued and unpaid interest shall be paid on such Interest Payment Date to the record holder on the relevant Interest Record Date, (ii) the Conversion Price Trigger Redemption Price will not include any accrued and unpaid interest, and (iii) the Make-Whole Premium shall equal the present value of all remaining scheduled payments of interest on such Notes, starting with the next Interest Payment Date for which interest has not been provided for (but otherwise calculated as set forth in the definition of Make-Whole Premium). The Trustee shall have no duty to determine or calculate the Make-Whole Premium, which shall be determined by the Company in accordance with the provisions of the Indenture, and the Trustee shall not be under any responsibility to determine the correctness of any such determination and/or calculation and may conclusively rely on the correctness thereof.

If the Company elects to redeem Notes pursuant to this Section 4.01, it shall notify the Trustee in writing of such election together with the Redemption Date, the Conversion Rate, the principal amount of Notes to be redeemed and the Conversion Price Trigger Redemption Price. Notwithstanding the foregoing, the Company may not redeem any Notes if the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Conversion Price Trigger Redemption Price and any related Interest set forth above on the Redemption Date).

The Company shall give the notice to the Trustee provided for in this Section 4.01 by a Company Order, at least 30 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee).

Section 4.02 Selection of Notes to Be Redeemed. If less than all of the Notes are to be redeemed, unless the procedures of the Depository provide otherwise, the Trustee shall select the Notes to be redeemed by lot, on a pro rata basis or by another method the Trustee considers fair and appropriate in accordance with industry standards at the time of such redemption (so long as such method is not prohibited by the rules of any stock exchange or quotation association on which the Notes are then traded or quoted). The Trustee may select for redemption portions of the principal amount of Notes that have denominations larger than \$1,000.

Notes and portions of Notes that the Trustee selects shall be in principal amounts of \$1,000 or an integral multiple of \$1,000. Provisions of the Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Company promptly (but in any case within seven days of the Company Order referred to in Section 4.01) of the Notes or portions of the Notes selected to be redeemed and, in the case of any Notes selected for partial redemption, the method it has chosen for the selection of the Note.

Following a notice of redemption, Notes and portions of Notes are convertible, pursuant to Section 9.01(a)(ii), by the Holder until the close of business on the second Business Day immediately prior to the Redemption Date, unless the Company fails to pay the Conversion Price Trigger Redemption Price. If any Note selected for partial redemption is converted in part before termination of the conversion right with respect to the portion of the Note so selected, the converted portion of such Note shall be deemed (so far as may be) to be the portion selected for redemption. Notes that have been converted during a selection of Notes to be redeemed may be treated by the Trustee as outstanding for the purpose of such selection.

Section 4.03 Notice of Redemption. The Company shall send a notice of redemption (substantially in the form of Exhibit C) to each Holder of Notes to be redeemed at least forty-five (45), but no more than sixty-five (65), Scheduled Trading Days before the related Redemption Date.

The notice shall identify the Notes to be redeemed and shall state (along with any other information the Company wishes to include):

- (1) the Redemption Date;
- (2) the Conversion Price Trigger Redemption Price;
- (3) the Conversion Rate;
- (4) the name and address of the Paying Agent and Conversion Agent;

- (5) that Notes may be converted at any time before the close of business on the second Business Day immediately prior to the Redemption Date, unless the Company fails to pay the Conversion Price Trigger Redemption Price;
- (6) that Notes called for redemption and not converted shall be redeemed on the Redemption Date;
- (7) that Holders who want to convert their Notes must satisfy the requirements set forth in the Notes;
- (8) that Notes called for redemption must be surrendered to the Paying Agent (by effecting book entry transfer of the Notes or delivering Certificated Notes, together with necessary endorsements, as the case may be) to collect the Conversion Price Trigger Redemption Price;
- (9) if fewer than all of the outstanding Notes are to be redeemed, the certificate numbers, if any, and principal amounts of the particular Notes to be redeemed;
- (10) that, unless the Company defaults in making payment of such Conversion Price Trigger Redemption Price and Interest, the Notes called for redemption shall cease to accrue from and after the Redemption Date; and
- (11) the "CUSIP," "ISIN" or other similar number(s), as the case may be, of the Notes being redeemed.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense, *provided* that the Company makes such request at least seven Business Days (or such shorter period as may be satisfactory to the Trustee) prior to the date by which such notice of redemption must be given to Holders in accordance with this Section 4.03.

Section 4.04 Effect of Notice of Redemption. Once notice of redemption is given, Notes called for redemption become due and payable on the Redemption Date and at the Conversion Price Trigger Redemption Price stated in the notice of redemption except for Notes that are converted in accordance with the terms of the Indenture. Upon surrender to the Paying Agent, such Notes shall be paid at the Conversion Price Trigger Redemption Price stated in the notice of redemption and from and after the Redemption Date (unless the Company shall default in the payment of the Conversion Price Trigger Redemption Price) such Notes shall cease to bear Interest (other than as set forth in clause (i) of the second paragraph of Section 4.01), and the rights of the Holders therein shall terminate (other than the right to receive the Conversion Price Trigger Redemption Price).

Section 4.05 Deposit of Conversion Price Trigger Redemption Price. Prior to 10:00 a.m. (New York City time), on the Redemption Date, the Company shall deposit with the Paying Agent (or if the Company or a Subsidiary or an Affiliate of either of them is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the Conversion Price Trigger Redemption Price of all Notes to be redeemed on that date other than Notes or portions of Notes called for redemption that on or prior thereto have been delivered by the Company to the Trustee for cancellation or have been converted. The Paying Agent shall as promptly as practicable return to the Company any money not required for that purpose because of conversion of Notes pursuant to Article 9. If such money is then held by the Company or a Subsidiary or an Affiliate of either of them in trust and is not required for such purpose it shall be discharged from such trust.

Section 4.06 Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Company shall execute and the Trustee shall, without charge, authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the unredeemed portion of the Note surrendered.

Section 4.07 Repurchase of Notes at Option of the Holder Upon a Fundamental Change.

(a) If a Fundamental Change occurs, each Holder shall have the right (the “**Fundamental Change Repurchase Right**”), at such Holder’s option, to require the Company to repurchase (a “**Repurchase Upon Fundamental Change**”) all of such Holder’s Notes (or portions thereof that are integral multiples of \$1,000 in principal amount), on a date selected by the Company (the “**Fundamental Change Repurchase Date**”), which shall be no later than 35 days, nor earlier than 20 days, after the date the Fundamental Change Repurchase Notice is sent in accordance with Section 4.07(b), at a price (the “**Fundamental Change Repurchase Price**”), payable in cash, equal to 100% of the principal amount of the Notes (or portions thereof) to be so repurchased, plus, except as provided below, accrued and unpaid Interest, if any, to, but excluding, the Fundamental Change Repurchase Date, upon (with respect to Certificated Notes):

(i) delivery to the Company (if it is acting as its own Paying Agent), or to a Paying Agent designated by the Company for such purpose in the Fundamental Change Repurchase Notice, no later than the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, of a Holder Repurchase Notice, in the form set forth in the Notes or any other form of written notice substantially similar thereto, in each case, duly completed and signed, with appropriate signature guarantee, stating:

- (A) the certificate number(s) of the Notes that the Holder will deliver to be repurchased, if such Notes are Certificated Notes;
- (B) the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and
- (C) that such principal amount of Notes are to be repurchased pursuant to the terms and conditions specified in this Section 4.07; and

(ii) delivery to the Company (if it is acting as its own Paying Agent), or to a Paying Agent designated by the Company for such purpose in the Fundamental Change Repurchase Notice, at any time after the delivery of such Holder Repurchase Notice, of such Notes (together with all necessary endorsements) with respect to which the Fundamental Change Repurchase Right is being exercised;

provided, however, that if such Fundamental Change Repurchase Date is after an Interest Record Date and on or before the related Interest Payment Date, then the full amount of accrued and unpaid Interest, to, but excluding, such Interest Payment Date shall be paid on such Interest Payment Date to the Holder of record of such Notes at the close of business on such Interest Record Date (without any surrender of such Notes by such Holder), and the Fundamental Change Repurchase Price shall not include any accrued but unpaid Interest.

If such Notes are instead held in book-entry form through the Depository, the delivery of any Holder Repurchase Notice, Fundamental Change Repurchase Notice or notice of withdrawal pursuant to Section 4.07(b)(x) shall comply with applicable procedures of the Depository no later than the close of business on the second (2nd) Business Day immediately preceding the Fundamental Change Repurchase Date.

Upon such delivery of Notes to the Company (if it is acting as its own Paying Agent) or such Paying Agent, such Holder shall be entitled to receive, upon request, from the Company or such Paying Agent, as the case may be, a nontransferable receipt of deposit evidencing such delivery.

Notwithstanding anything herein to the contrary, any Holder that has delivered the Holder Repurchase Notice contemplated by this Section 4.07(a) to the Company (if it is acting as its own Paying Agent) or to a Paying Agent designated by the Company for such purpose in the Fundamental Change Repurchase Notice shall have the right to withdraw such Holder Repurchase Notice by delivery, at any time prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, of a written notice of withdrawal to the Company (if acting as its own Paying Agent) or the Paying Agent, which notice shall contain the information specified in Section 4.07(b)(x).

The Paying Agent shall promptly notify the Company of the receipt by it of any Holder Repurchase Notice or written notice of withdrawal thereof.

(b) Within 20 Business Days after the occurrence of a Fundamental Change, the Company shall send, or cause to be sent, to all Holders, and to beneficial owners as required by applicable law, a notice, substantially in the form of **Exhibit D**, (the “**Fundamental Change Repurchase Notice**”) of the occurrence of such Fundamental Change and the Fundamental Change Repurchase Right arising as a result thereof. The Company shall deliver a copy of the Fundamental Change Repurchase Notice to the Trustee and shall publicly release, through a reputable national newswire service, such Fundamental Change Repurchase Notice. Each Fundamental Change Repurchase Notice shall state:

(i) the events causing the Fundamental Change;

(ii) the date of such Fundamental Change;

(iii) the Fundamental Change Repurchase Date;

(iv) the last date on which the Fundamental Change Repurchase Right may be exercised, which shall be the second Business Day immediately preceding the Fundamental Change Repurchase Date;

(v) the Fundamental Change Repurchase Price;

(vi) the names and addresses of the Paying Agent and the Conversion Agent;

(vii) the procedures that a Holder must follow to exercise the Fundamental Change Repurchase Right;

(viii) that the Fundamental Change Repurchase Price for any Note as to which a Holder Repurchase Notice has been given and not withdrawn will be paid as promptly as practicable, but in no event after the later of such Fundamental Change Repurchase Date and the time of book-entry transfer or delivery of the Note (together with all necessary endorsements); *provided, however*, that if such Fundamental Change Repurchase Date is after a Record Date for the payment of an installment of Interest and on or before the related Interest Payment Date, then the accrued and unpaid Interest, if any, to, but excluding, such Interest Payment Date will be paid on such Interest Payment Date to the Holder of record of such Note at the close of business on such Record Date (without any surrender of such Notes by such Holder) and the Fundamental Change Repurchase Price shall not include any accrued and unpaid Interest;

(ix) that, except as otherwise provided herein with respect to a Fundamental Change Repurchase Date that is after a Record Date for the payment of an installment of Interest and on or before the related Interest Payment Date, on and after such Fundamental Change Repurchase Date (unless there shall be a Default in the payment of the Fundamental Change Repurchase Price), Interest on Notes subject to Repurchase Upon Fundamental Change will cease to accrue (except as set forth in Section 4.07(a)), and all rights of the Holders of such Notes shall terminate, other than the right to receive, in accordance herewith, the Fundamental Change Repurchase Price;

(x) that a Holder will be entitled to withdraw its election in the Holder Repurchase Notice prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, or such longer period as may be required by law, by means of a notice setting forth (I) the name of such Holder, (II) a statement that such Holder is withdrawing its election to have Notes purchased by the Company pursuant to a Repurchase Upon Fundamental Change, (III) the certificate number(s) of such Notes to be so withdrawn, if such Notes are Certificated Notes, (IV) the principal amount of the Notes of such Holder to be so withdrawn, which amount must be \$1,000 or an integral multiple thereof and (V) the principal amount, if any, of the Notes of such Holder that remain subject to the Holder Repurchase Notice delivered by such Holder in accordance with this Section 4.07, which amount must be \$1,000 or an integral multiple thereof; *provided, however*, that if there shall be a Default in the payment of the Fundamental Change Repurchase Price, a Holder shall be entitled to withdraw its election in the Holder Repurchase Notice at any time during which such Default is continuing;

(xi) the Conversion Rate and any adjustments to the Conversion Rate that will result from such Fundamental Change;

(xii) that Notes with respect to which a Holder Repurchase Notice is given by a Holder may be converted pursuant to Article 9 only if such Holder Repurchase Notice has been withdrawn in accordance with this Section 4.07; and

(xiii) the CUSIP number or numbers, as the case may be, of the Notes.

At the Company's request, upon prior notice reasonably acceptable to the Trustee, the Trustee shall send such Fundamental Change Repurchase Notice in the Company's name and at the Company's expense; *provided, however*, that the form and content of such Fundamental Change Repurchase Notice shall be prepared by the Company.

No failure of the Company to give a Fundamental Change Repurchase Notice shall limit any Holder's right pursuant hereto to exercise a Fundamental Change Repurchase Right.

(c) Subject to the provisions of this Section 4.07, the Company shall pay, or cause to be paid, the Fundamental Change Repurchase Price with respect to each Note as to which the Fundamental Change Repurchase Right shall have been exercised to the Holder thereof no later than the later of the Fundamental Change Repurchase Date and the time of book-entry transfer or when such Note is surrendered to the Paying Agent together (except in the case of a Global Security) with all necessary endorsements; *provided, however*, that if such Fundamental Change Repurchase Date is after an Interest Record Date and on or before the related Interest Payment Date, then the accrued and unpaid Interest, if any, to, but excluding, such Interest Payment Date will be paid on such Interest Payment Date to the Holder of record of such Note at the close of business on such Interest Record Date and the Fundamental Change Repurchase Price shall not include any accrued and unpaid Interest.

(d) The Company shall, in accordance with Section 4.09, deposit with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust in accordance with Section 4.10) money, in funds immediately available on the Fundamental Change Repurchase Date, sufficient to pay the Fundamental Change Repurchase Price upon Repurchase Upon Fundamental Change for all of the Notes that are to be repurchased by the Company on such Fundamental Change Repurchase Date pursuant to a Repurchase Upon Fundamental Change. The Paying Agent shall return to the Company, as soon as practicable, any money not required for that purpose.

(e) On and after the Fundamental Change Repurchase Date, if the Paying Agent holds (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, segregated money held in trust as provided in Section 2.06 of the Base Indenture) on the Fundamental Change Repurchase Date money sufficient to pay the Fundamental Change Repurchase Price due on such Notes, then such Notes will cease to be outstanding and, except as otherwise provided herein with respect to a Fundamental Change Repurchase Date that is after a Record Date for the payment of an installment of interest and on or before the related Interest Payment Date, such Notes shall cease to bear interest (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Paying Agent), and all rights of the relevant Holders of such Notes shall terminate, other than the right to receive, in accordance herewith, the Fundamental Change Repurchase Price upon book-entry transfer or delivery of the Note (and, if such Fundamental Change Repurchase Date is after an Interest Record Date and on or before the related Interest Payment Date, the right to receive accrued and unpaid Interest, if any, to, but excluding, such Interest Payment Date).

(f) Notes with respect to which a Holder Repurchase Notice has been duly delivered in accordance with this Section 4.07 may be converted pursuant to Article 9 only if such Holder Repurchase Notice has been withdrawn in accordance with this Section 4.07.

(g) Subject to Section 4.07(e), if any Note shall not be paid upon book-entry transfer or surrender thereof for Repurchase Upon Fundamental Change, the principal of, and accrued and unpaid Interest on, such Note shall, until paid, bear Interest, payable in cash, at the rate borne by such Note on the principal amount of such Note.

(h) Any Note that is to be submitted for Repurchase Upon Fundamental Change only in part shall be delivered pursuant to this Section 4.07 (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or its attorney duly authorized in writing, with a medallion guarantee), and the Company shall promptly execute, and the Trustee shall promptly authenticate and make available for delivery to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, of the same tenor and in aggregate principal amount equal to the portion of such Note not duly submitted for Repurchase Upon Fundamental Change.

(i) Notwithstanding anything herein to the contrary, except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price, there shall be no purchase of any Notes pursuant to this Section 4.07 on a Fundamental Change Repurchase Date if, on such date, the principal amount of the Notes shall have been accelerated in accordance with the Indenture and such acceleration shall not have been rescinded on or before the Fundamental Change Repurchase Date (including as a result of the payment of the related Fundamental Change Repurchase Price and any related Interest set forth in Section 4.07 on the Fundamental Change Repurchase Date). The Paying Agent will promptly return to the respective Holders thereof any Notes held by it during the continuance of such an acceleration.

(j) In connection with any Repurchase Upon Fundamental Change, the Company shall, to the extent applicable (i) comply with all applicable tender offer rules under the Exchange Act, including Rule 13e-4 and Regulation 14E thereunder, and with all other applicable laws; (ii) file a Schedule TO or any other schedules required under the Exchange Act or any other applicable laws; and (iii) otherwise comply with all applicable United States federal and state securities laws in connection with any offer by the Company to purchase the Notes.

(k) Notwithstanding anything to the contrary in this Section 4.07, the Company will be deemed to satisfy its obligations under this Section 4.07 if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this Section 4.07 in a manner that would have satisfied the requirements of this Section 4.07 if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not receive a lesser amount (as a result of taxes, additional expenses or for any other reason) than such owner would have received had the Company repurchased such Note.

(l) Notwithstanding anything to the contrary in this Section 4.07, the Company will not be required to send a Fundamental Change Repurchase Notice or issue a press release pursuant to Section 4.07(b), or offer to repurchase or repurchase any Notes pursuant to this Section 4.07, in connection with a Fundamental Change occurring pursuant to clause (2)(b) (or pursuant to clause (1) that also constitutes a Fundamental Change occurring pursuant to clause (2)(b)) of the definition of "Change of Control," if (i) such Fundamental Change constitutes a Common Stock Change Event whose Reference Property consists entirely of cash in U.S. dollars; (ii) immediately after such Fundamental Change, the Notes become convertible, pursuant to Section 9.12 and, if applicable, Section 9.15, into consideration that consists solely of U.S. dollars in an amount per \$1,000 aggregate principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per \$1,000 aggregate principal amount of Notes (calculated assuming that the same includes accrued and unpaid interest to, but excluding, the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and (iii) the Company timely sends the notice relating to such Fundamental Change required pursuant to Section 9.01(b)(iii) and includes, in such notice, a statement that the Company is relying on this Section 4.07(l). Any Fundamental Change with respect to which, in accordance with the provisions described in this Section 4.07(l), the Company does not offer to repurchase any Notes, an "**Exempted Fundamental Change**."

Section 4.08 *Effect of Fundamental Change Repurchase Notice.*

(a) Upon receipt by the Paying Agent of the Holder Repurchase Notice specified in Section 4.07, the Holder of the Note in respect of which such Fundamental Change Repurchase Notice was given shall (unless such Holder Repurchase Notice is validly withdrawn) thereafter be entitled solely to receive the Fundamental Change Repurchase Price with respect to such Note whether or not the Note is, in fact, properly delivered. Such Fundamental Change Repurchase Price shall be paid to such Holder, subject to receipt of funds and/or securities by the Paying Agent, promptly following the later of (x) the Business Day following the Fundamental Change Repurchase Date with respect to such Note (*provided* the conditions in Section 4.07 have been satisfied) and (y) the time of delivery of such Note to the Paying Agent by the Holder thereof in the manner required by Section 4.07. Notes in respect of which a Holder Repurchase Notice has been given by the Holder thereof may not be converted pursuant to and to the extent permitted by Article 9 hereof on or after the date of the delivery of such Holder Repurchase Notice unless such Holder Repurchase Notice has first been validly withdrawn.

(b) A Holder Repurchase Notice may be withdrawn by means of a written notice of withdrawal delivered to the Paying Agent (or to the Company if it is acting as its own Paying Agent) at any time prior to the close of business on the second Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(i) the name of the Holder,

(ii) a statement that the Holder is withdrawing all or a portion of its election with respect to the original Holder Repurchase Notice,

(iii) the principal amount, if any, of such Note that remains subject to the original Holder Repurchase Notice and that has been or shall be delivered for purchase by the Company,

(iv) if Certificated Notes have been issued, the certificate number, if any, of the Note in respect of which such notice of withdrawal is being submitted (or, if Certificated Notes have not been issued, that such withdrawal notice shall comply with the appropriate Depository procedures), and

(v) the principal amount of the Note with respect to which such notice of withdrawal is being submitted.

Section 4.09 *Deposit of Fundamental Change Repurchase Price.* Prior to 10:00 a.m. (New York City time), on the Fundamental Change Repurchase Date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.06 of the Base Indenture) an amount of cash in immediately available funds sufficient to pay the aggregate Fundamental Change Repurchase Price of all the Notes or portions thereof that are to be purchased as of the Fundamental Change Repurchase Date.

Section 4.10 Notes Purchased in Part. Any Certificated Note that is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered that is not purchased.

Section 4.11 Covenant to Comply with Securities Laws upon Purchase of Notes. When complying with the provisions of Section 4.07 hereof (*provided* that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e-4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), and subject to any exemptions available under applicable law, the Company shall (i) comply with Rule 13e-4 and Rule 14e-1 (or any successor provision) and any other applicable tender offer rules under the Exchange Act, (ii) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act, and (iii) otherwise comply with all applicable federal and state securities laws so as to permit the rights and obligations under Section 4.07 to be exercised in the time and in the manner specified in Section 4.07. Notwithstanding anything to the contrary herein, to the extent that compliance with Section 4.07 would result in a violation of any applicable federal or state securities laws or other applicable laws or regulations, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Section 4.07 by virtue of the conflict.

Section 4.12 Repayment to the Company. The Trustee and the Paying Agent shall return to the Company any cash that remains unclaimed as provided in Section 12 of the Notes, together with interest, if any, thereon (subject to the provisions of Section 7.01(f) of the Base Indenture), held by them for the payment of the Fundamental Change Repurchase Price.

ARTICLE 5 COVENANTS

Section 5.01 Payment of Notes. The Company shall make all payments in respect of the Notes on the dates and in the manner provided in the Notes or pursuant to the Indenture. Any amounts of cash in immediately available funds or shares of Common Stock to be given to the Trustee or Paying Agent shall be deposited with the Trustee or Paying Agent by 10:00 a.m. (New York City time), by the Company. The principal amount of, and Interest on the Notes, and the Conversion Price Trigger Redemption Price and the Fundamental Change Repurchase Price shall be considered paid on the applicable date due if on such date (which, in the case of a Fundamental Change Repurchase Price, shall be on the Business Day immediately following the Fundamental Change Repurchase Date) the Trustee or the Paying Agent holds, in accordance with the Indenture, cash or securities, if permitted hereunder, sufficient to pay all such amounts then due.

Section 5.02 Maintenance of Office or Agency. The Company shall maintain in the continental United States an office or agency of the Conversion Agent where Notes may be surrendered for conversion. The Corporate Trust Office of the Trustee located in the continental United States shall initially be such office or agency for the aforesaid purpose.

Section 5.03 Exchange Act Reports. The Company will send to the Trustee copies of all reports, information and documents that it is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to so file the same (after giving effect to all applicable grace periods under the Exchange Act). However, the Company need not send to the Trustee any material for which it has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC. Each report that the Company files with the SEC through the EDGAR system, provided the Company notifies the Trustee of each such filing and the location thereof in reasonable detail, will be deemed to have been delivered to the Trustee. Delivery of such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt thereof shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates or certificates delivered pursuant to Section 4.04 of the Base Indenture).

ARTICLE 6 SUCCESSOR PERSON

Section 6.01 When Company May Merge or Transfer Assets. The Company shall not consolidate with or merge with or into any other Person or convey, transfer, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless:

(a) the resulting, surviving or transferee person (the "**Successor Person**") will be a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia and the Successor Person (if not the Company) will expressly assume, by indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all of the obligations of the Company or such Successor Person including the due and punctual payment of the principal of and accrued and unpaid interest on all of the Notes, the due and punctual payment of the Fundamental Change Repurchase Price with respect to all Notes repurchased on each Fundamental Change Repurchase Date, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of the Indenture and the Notes to be performed by the Company and fully and unconditionally guarantee all of the obligations of the Company or such Successor Person under the Notes and the Indenture;

(b) immediately after giving effect to such transaction (and treating any indebtedness that becomes an obligation of the Successor Person as a result of such transaction as having been incurred by such Successor Person as the time of such transaction), no Default shall have occurred and be continuing; and

(c) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer, sale or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Article 6 and that all conditions precedent herein provided relating to such transaction have been satisfied.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of the properties and assets of one or more Subsidiaries (other than to the Company or another Subsidiary), which, if such assets were owned by the Company, would constitute all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

The Successor Person formed by such consolidation or into which the Company is merged or the Successor Person to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture with the same effect as if such successor had been named as the Company herein; and thereafter, except in the case of a lease and except for obligations the Company may have under a separate supplemental indenture with respect to securities other than the Notes, the Company shall be discharged from all obligations and covenants under the Indenture and the Notes. The Company, the Trustee and the Successor Person shall enter into a supplemental indenture to evidence the succession and substitution of such Successor Person and such discharge and release of the Company.

ARTICLE 7
DEFAULTS AND REMEDIES

Section 7.01 Events of Default. So long as any Notes are outstanding, each of the following shall be an "Event of Default":

- (a) following the exercise by the Holder of the right to convert a Note in accordance with Article 9 hereof, the Company fails to comply with its obligations to deliver the consideration due upon conversion when due, and such failure continues for a period of five (5) days or more;
- (b) the Company defaults in its obligation to provide timely notice of a Fundamental Change or Make-Whole Fundamental Change to the Trustee and each Holder as required under the Indenture, in each case when due and such failure continues for a period of five (5) days or more;
- (c) the Company defaults in the payment of the principal amount of, or the Conversion Price Trigger Redemption Price or Fundamental Change Repurchase Price for, any Note when due at maturity, redemption, upon repurchase or otherwise (including, without limitation, upon the exercise by a Holder of its right to require the Company to repurchase such Notes pursuant to and in accordance with Section 4.07 hereof);
- (d) the Company defaults in the payment of any Interest when due and payable, and continuance of such default for a period of 30 days;
- (e) the Company fails to perform or observe any term, covenant or warranty or agreement in the Notes or the Indenture (other than those referred to in Section 7.01(a) through clause Section 7.01(d) above) and such failure continues for 90 days after receipt by the Company of a Notice of Default;

(f) a failure to pay when due at maturity or a default, event of default or other similar condition or event (however described) that results in the acceleration of maturity of indebtedness for borrowed money of the Company or any Subsidiary (other than indebtedness that is non-recourse to the Company or any Subsidiary) in an aggregate principal amount of \$25 million (or its foreign currency equivalent) or more, unless the acceleration is rescinded, stayed or annulled within 30 days after receipt by the Company of a Notice of Default;

(g) the entry by a court having jurisdiction in the premise of (i) a decree or order for relief in respect of the Company or any of its Significant Subsidiaries (as defined in Article 1, Rule 1-02 of Regulation S-X), in an involuntary case or proceeding under any applicable bankruptcy, insolvency, reorganization or other similar law (any “**Bankruptcy Law**”) or (ii) a decree or order adjudging the Company or any of its Significant Subsidiaries bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any of its Significant Subsidiaries, under any applicable Bankruptcy Law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order described in clause (i) or (ii) above is unstayed and in effect for a period of 60 consecutive days; and

(h) the commencement by the Company or any of its Significant Subsidiaries, of a voluntary case or proceeding under any applicable Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or (ii) the consent by the Company, to the entry of a decree or order for relief in respect of the Company or any of its Significant Subsidiaries, in an involuntary case or proceeding under any applicable Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against the Company, or (iii) the filing by the Company, of a petition or answer or consent seeking reorganization or relief under any applicable Bankruptcy Law, or (iv) the consent by the Company to the filing of such petition or to the appointment of or the taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or (v) the making by the Company or any of its Significant Subsidiaries, of a general assignment for the benefit of creditors, or the admission by the Company or any of its Significant Subsidiaries, in writing of its inability to pay its debts generally as they become due.

The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

For the avoidance of doubt, clauses (e) and (f) above shall not constitute an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in aggregate principal amount of the Notes at the time outstanding notify the Company and the Trustee, of such default and the Company does not cure such default (and such default is not waived) within the time specified in clauses (e) and (f) above after actual receipt of such notice. Any such notice must specify the default, demand that it be remedied and state that such notice is a “**Notice of Default.**”

Section 7.02 Acceleration. If an Event of Default (other than an Event of Default specified in Section 7.01(g) or Section 7.01(h) involving the Company and not solely one or more of the Company’s Significant Subsidiaries) occurs and is continuing (the Event of Default not having been cured or waived), the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes at the time outstanding by notice to the Company and the Trustee, may declare the principal amount of the Notes and any accrued and unpaid Interest on all the Notes to be immediately due and payable. Upon such a declaration, such accelerated amount shall be due and payable immediately. If an Event of Default specified in Section 7.01(g) or Section 7.01(h) occurs and is continuing involving the Company (and not solely involving one or more of the Company’s Significant Subsidiaries), the principal amount of the Notes and any accrued and unpaid Interest on all the Notes shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by notice to the Trustee (and without notice to any other Holders) may rescind an acceleration and its consequences, and thereby waive the Events of Default giving rise to such acceleration, if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of the principal amount of the Notes and any accrued and unpaid Interest that have become due solely as a result of acceleration. No such rescission shall affect any subsequent Event of Default or impair any right consequent thereto.

Section 7.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of the principal amount of the Notes and any accrued and unpaid Interest on the Notes or to enforce the performance of any provision of the Notes or the Indenture.

The Trustee may maintain a proceeding even if the Trustee does not possess any of the Notes or does not produce any of the Notes in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of, or acquiescence in, the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

Section 7.04 Special Interest. Notwithstanding anything to the contrary in this Article 7, the Company may elect that the sole remedy for any Event of Default (a “**Reporting Event of Default**”) pursuant to Section 7.01(e) arising from the Company’s failure to comply with its obligations under Section 5.03 will, for each of the first one hundred eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration as set forth above on account of the relevant Reporting Event of Default from, and including, the one hundred eighty-first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such one hundred eighty-first (181st) calendar day.

Any Special Interest that accrues on a Note will be payable on the same dates and in the same manner as the stated Interest on such Note and will accrue at a rate per annum equal to 0.25% of the principal amount thereof. For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the stated Interest that accrues on such Note. Each reference in this Indenture to Interest on any Note includes Special Interest, if any, that has accrued on such Note, unless the context requires otherwise.

To make the election to pay Special Interest as set forth above, the Company must provide notice of such election to Holders before the date on which each Reporting Event of Default first occurs. The notice will also, among other things, briefly describe the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

**ARTICLE 8
AMENDMENTS**

Section 8.01 Without Consent of Holders. The Company and the Trustee may modify or amend the Indenture or the Notes without the consent of any Securityholder to:

- (a) comply with Section 9.12;
- (b) add guarantees with respect to the Notes or secure the Notes;
- (c) provide for the release of any guarantee added to the Notes pursuant to clause (b) above, unless such guarantee is required pursuant to Section 6.01(a);
- (d) add to the covenants or Events of Default of the Company for the benefit of the Holders;
- (e) surrender any right or power herein conferred upon the Company;
- (f) provide for conversion rights of Holders if any reclassification or change of the Common Stock or any consolidation, merger or sale of all or substantially all of the Company's assets occurs;
- (g) enter into supplemental indentures in accordance with Section 9.12 in connection with a Common Stock Change Event, including to provide that the Notes are convertible into Reference Property and make any other change required by or resulting from, but subject to, the provisions of Section 9.12;
- (h) provide for the assumption by a Successor Person of the Company's obligations to the Holders in the case of a merger, consolidation, conveyance, transfer or lease pursuant to Article 6 hereof;
- (i) provide for uncertificated Notes in addition to or in place of Certificated Notes; *provided, however,* that uncertificated Notes are issued in registered form for United States federal income tax purposes;
- (j) change the Conversion Rate in accordance with the Indenture; *provided, however,* that any increase in the Conversion Rate other than pursuant to Article 9 shall not adversely affect the interests of the Holders (after taking into account United States federal income tax and other consequences of such increase);
- (k) evidence the acceptance of appointment by a successor Trustee;
- (l) irrevocably elect or eliminate any Settlement Method or Specified Cash Amount; *provided, however,* that no such election or elimination will affect any settlement method theretofore elected (or deemed to be elected) with respect to any Note pursuant to Section 9.02;

- (m) comply with the requirements of the SEC or TIA in order to effect or maintain the qualification of the Indenture or any supplemental indenture under the TIA;
- (n) cure any ambiguity or to correct any mistake or supplement any provision herein or in the Notes that may be inconsistent with any other provision herein or that is otherwise defective;
- (o) make other changes to the Indenture or forms or terms of the Notes, provided no such change individually or in the aggregate with all other such changes has or will have a material adverse effect on the interests of the Holders;
- (p) conform, as necessary, the Indenture and the forms or terms of the Notes, to the "Description of Notes" as set forth in the Preliminary Prospectus Supplement relating to the Notes, dated August 11, 2020, together with the related Pricing Term Sheet, dated August 11, 2020;
- (q) comply with the rules of any applicable Depository for the Notes, including DTC;
- (r) establish the form of Notes if issued in definitive form (substantially in the form of Exhibit B);
- (s) provide for or confirm the issuance of additional Notes pursuant to this Indenture; or
- (t) evidence and provide for the acceptance of the appointment under the Indenture of a successor Trustee in accordance with the terms of the Indenture.

The Holders of a majority in aggregate principal amount of the outstanding Notes may, on behalf of all the holders of all Notes, waive all compliance by the Company with provisions in the Indenture (other than the provisions of the Indenture whose modification or amendment otherwise requires the consent of the holder of each outstanding Note affected by such modification or amendment as set forth in Section 8.02); or waive any past Default or Event of Default under the Indenture and its consequences, except a Default or Event of Default in the payment of any amount due, or in the obligation to deliver consideration upon conversion or with respect to any Note or in respect of any provision which under the Indenture cannot be modified or amended without the consent of the holder of each outstanding Note affected.

Section 8.02 With Consent of Holders. Except as provided below in this Section 8.02 and in Section 8.01, the Company and the Trustee may amend, modify or supplement the Indenture or the Notes with the written consent of the Holders of at least a majority of the principal amount of the Notes at the time outstanding. Except as provided below in this Section 8.02 and in Section 8.01, the Holders of at least a majority of the principal amount of the Notes at the time outstanding may waive noncompliance in any particular instance with any provision of the Indenture or the Notes.

Without the written consent or the affirmative vote of each Holder affected thereby, an amendment, supplement or waiver under this Section 8.02 may not:

- (a) reduce the principal amount of or change the stated maturity of any Note, or the payment date of any installment of Interest payable on any Note;

- (b) reduce the Conversion Price Trigger Redemption Price or Fundamental Change Repurchase Price of, any Note or change the time at which or circumstances under which the Notes may be redeemed or repurchased;
- (c) change the currency of payment of such Notes or Interest, Conversion Price Trigger Redemption Price or Fundamental Change Repurchase Price thereon;
- (d) alter the manner of calculation or rate of accrual of Interest or extend the time for payment of any such amount or the Conversion Price Trigger Redemption Price or Fundamental Change Repurchase Price of any Note;
- (e) impair the right of any Holder to receive payment on or with respect to, or conversion of, any Note or to bring suit for the enforcement of any such payment;
- (f) adversely affect the repurchase option of the Holders as provided in Article 4 or the right of the Holders to convert any Note as provided in Article 9, except as otherwise permitted pursuant to Article 6 or Section 9.12 hereof;
- (g) modify the redemption provisions of Article 4 in a manner adverse to the Holders;
- (h) change the Company's obligation to maintain an office or agency in the places and for the purposes specified in the Indenture;
- (i) change the contractual priority in right of payment of the Notes as obligations of the Company that are (i) senior in right of payment to the Company's existing and future indebtedness that is expressly subordinated by contract to the Notes and (ii) equal in right of payment with the Company's existing and future indebtedness that is not so expressly subordinated (it being understood, for the avoidance of doubt, that (x) the Notes will not be deemed to be subordinated in right of payment to any other indebtedness solely because the Notes are unsecured and such other indebtedness is secured; and (y) the Notes will not be deemed to be subordinated in right of payment to any indebtedness of the Company's Subsidiaries that do not guarantee the Notes);
- (j) modify any of the provisions of this Section, or reduce the percentage of the aggregate principal amount of outstanding Notes required to amend, modify or supplement the Indenture or the Notes or waive an Event of Default, except to provide that certain other provisions of the Indenture cannot be modified or waived without the consent of each Holder affected thereby; or
- (k) reduce the percentage of the aggregate principal amount of the outstanding Notes the consent of whose Holders is required for any such supplemental indenture entered into in accordance with this Section 8.02 or the consent of whose Holders is required for any waiver provided for in the Indenture.

It shall not be necessary for the consent of the Holders under this Section 8.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 8.02 becomes effective, the Company shall send to each Holder a notice briefly describing the amendment.

Section 8.03 Satisfaction and Discharge. The Company may satisfy and discharge its obligations under the Indenture by delivering to the Trustee for cancellation all outstanding Notes or by depositing with the Trustee or delivering to the Holders, as applicable, after all then-outstanding Notes have become due and payable, whether at the Stated Maturity, or any Redemption Date or Fundamental Change Repurchase Date, or upon conversion or otherwise, cash (or, if applicable with respect to any conversion shares of the Common Stock or other Reference Property) sufficient to pay all of the outstanding Notes and paying all other sums payable under the Indenture by the Company. Notwithstanding the foregoing, the obligations of the Company to the Trustee under Section 7.07 of the Base Indenture shall survive any such satisfaction or discharge.

ARTICLE 9 CONVERSIONS

Section 9.01 Conversion Privilege.

(a) Subject to the provisions of Section 4.07 and Section 9.02, the Notes shall be convertible (i) prior to the close of business on the Business Day immediately preceding November 17, 2025, upon satisfaction of one or more of the conditions set forth in Section 9.01(b), (ii) at any time prior to the close of business on the second Business Day immediately preceding the Redemption Date, unless the Company fails to pay the Conversion Price Trigger Redemption Price, if the Company has called the Notes for redemption pursuant to Article 4 hereof, even if the Notes are not otherwise convertible at that time; and (iii) at any time from, and including, November 17, 2025 to the close of business on the second Scheduled Trading Day immediately preceding the Stated Maturity, irrespective of the conditions set forth in Section 9.01(b), in each case, into cash, shares of Common Stock, or a combination thereof, as set forth in Section 9.02, in accordance with this Article 9. For the avoidance of doubt, from and after the close of business on the second Business Day immediately preceding the Redemption Date referred to in clause (a)(ii) above, the right to convert such Note on account of such redemption will expire, unless the Company fails to pay the related Redemption Price, in which case the Holders of Notes called for redemption may convert such Notes called for redemption at any time until the Redemption Price has been paid or duly provided for.

(b) (i) Prior to the close of business on the Business Day immediately preceding November 17, 2025, Holders may surrender their Notes for conversion during any calendar quarter after the calendar quarter ending September 30, 2020 (and only during such calendar quarter), if the Closing Sale Price of the Common Stock for each of twenty (20) or more Trading Days (whether or not consecutive) in a period of thirty (30) consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter exceeds the Conversion Trigger Price in effect on the each applicable Trading Day. The Board of Directors will make appropriate adjustments to the Closing Sale Price of the Common Stock, in its good faith determination, to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date of the event occurs, during the thirty (30) consecutive Trading Day period set forth in the preceding sentence. The Company shall determine at the beginning of each calendar quarter commencing after September 30, 2020 whether the Notes may be surrendered for conversion in accordance with this Section 9.01(b)(i) and shall notify the Conversion Agent and the Trustee within ten (10) Business Days of the first day of such calendar quarter if the Notes become convertible in accordance with this Section 9.01(b)(i).

(ii) Prior to the close of business on the Business Day immediately preceding November 17, 2025, Holders may surrender their Notes for conversion during the five (5) consecutive Business Days immediately after any ten (10) consecutive Trading Day period (the “**Security Measurement Period**”) in which the Trading Price per \$1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth in this Section 9.01(b)(ii), for each Trading Day in such Security Measurement Period was equal to or less than 97% of the Conversion Value of the Notes on such Trading Day (the “**Trading Price Condition**”). The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this Section 9.01(b)(ii) and the definition of Trading Price set forth herein. The Company shall provide written notice to the Bid Solicitation Agent of the three independent nationally recognized securities dealers selected by the Company pursuant to the definition of Trading Price, along with appropriate contact information for each. The Bid Solicitation Agent shall have no obligation to determine the Trading Price of the Notes in accordance with this Section 9.01(b)(ii) unless requested by the Company, and the Company shall have no obligation to make such request unless a Holder of at least \$1.0 million aggregate principal amount of Notes then outstanding provides the Company with written notice that includes reasonable evidence that the Trading Price per \$1,000 principal amount of Notes would be equal to or less than 97% of the Conversion Value of the Notes. Promptly after receiving such evidence, the Company shall instruct the Bid Solicitation Agent to determine the Trading Price of the Notes beginning on the next Trading Day and on each of the next ten (10) Trading Days until the Trading Price Condition is no longer satisfied. If the Company does not so instruct the Bid Solicitation Agent to obtain bids when required pursuant to this Section 9.01(b)(ii), the Trading Price per \$1,000 principal amount of the Notes shall be deemed to be equal to 97% of the Conversion Value of the Notes on each Trading Day that the Company fails to do so. If, at any time after the Trading Price Condition set forth above has been met, the Trading Price per \$1,000 principal amount of Notes is greater than 97% of the Conversion Value, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee).

(iii) If, prior to November 17, 2025, there occurs (1) a Fundamental Change, (2) a Make-Whole Fundamental Change or (3) a Common Stock Change Event (other than, in the case of this clause (3), a transaction described in Section 9.12(i) that complies with the Company’s obligations under Article 6, if applicable, and is not a Fundamental Change or a Make-Whole Fundamental Change), in each case other than a merger or other business combination transaction that is effected solely to change the Company’s jurisdiction of incorporation and that does not constitute a Fundamental Change or a Make-Whole Fundamental Change, then a Holder may surrender its Notes for conversion at any time during the period that begins on, and includes, the effective date of the transaction and ends on, and includes, the thirty-fifth (35th) Business Day after the effective date of the transaction (or, if such transaction also constitutes a Fundamental Change (other than an Exempted Fundamental Change), until the close of business on the Business Day prior to related Fundamental Change Repurchase Date). The Company will notify Holders and the Trustee of any such transaction no later than the actual effective date of such transaction. In addition, if the transaction is a Fundamental Change, then the Notes may also be surrendered for repurchase as provided in Section 4.07.

(iv) Prior to the close of business on the Business Day immediately preceding November 17, 2025, if the Company elects to:

(A) distribute to all or substantially all holders of Common Stock any rights, options or warrants (other than rights issued pursuant to a shareholder rights plan, so long as such rights have not separated from the Common Stock and are not exercisable until the occurrence of a triggering event, except that such rights will be deemed to be distributed under this Section 9.01(b)(iv)(A) upon their separation from the Common Stock or upon the occurrence of such triggering event) entitling them, for a period of not more than sixty (60) days after the record date of such distribution, to purchase or subscribe for shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date such distribution is announced; or

(B) distribute to all or substantially all holders of Common Stock the Company's assets, debt securities or rights to purchase the Company's securities (excluding (i) distributions solely pursuant to a transaction described in Section 9.06(a); and (ii) rights issued pursuant to a shareholder rights plan, so long as such rights have not separated from the Common Stock and are not exercisable until the occurrence of a triggering event, except that such rights will be deemed to be distributed under this Section 9.01(b)(iv) (B) upon their separation from the Common Stock or upon the occurrence of such triggering event), which distribution has a per share value, as reasonably determined by the Board of Directors, exceeding 10% of the Closing Sale Price of the Common Stock on the Trading Day preceding the date of announcement of such distribution,

then, in each case, the Company shall notify Holders and the Trustee at least forty-five (45) Business Days before the Ex-Dividend Date for such distribution. Once the Company has given such notice, Holders may surrender Notes for conversion at any time until the earlier of the close of business on the Business Day immediately preceding the Ex-Dividend Date for such distribution and the Company's announcement that such distribution will not take place, even if the Notes are not otherwise convertible at such time. However, the Company will not be required to provide such notice, and Holders will not have the right to convert their Notes pursuant to this Section 9.01(b)(iv)(B), if each Holder participates, at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in such distribution without having to convert their Notes as if such Holder held a number of shares of Common Stock equal to the Conversion Rate in effect on the record date for such distribution, *multiplied* by the principal amount (expressed in thousands) of Notes held by such Holder.

(c) A Holder may convert a portion of the principal amount of a Note if such portion is \$1,000 principal amount or an integral multiple of \$1,000 principal amount. Provisions of the Indenture that apply to conversion of all of a Note also apply to conversion of a portion of such Note.

(d) If the Notes shall be convertible in accordance with this Section 9.01, the Company shall provide written notice to the Trustee, the Conversion Agent (if other than the Trustee) and Holders, and the Company shall publicly announce, through a reputable national newswire service, that the Notes have become convertible, stating, among other things:

(i) the event causing the Notes to become convertible;

- (ii) the time during which the Notes shall be convertible as a result of that event;
- (iii) if that event is a transaction described under Section 9.01(b)(iii) or Section 9.01(b)(iv), the effective date of the transaction; and
- (iv) the procedures Holders must follow to convert their Notes, including the name and address of the Conversion Agent.

The Company shall send the notice as soon as practicable, but in no event later than the open of business on the Business Day immediately following the date the Notes become convertible as a result of the event.

Section 9.02 Conversion Procedure and Payment Upon Conversion.

(a) To convert a Note, a Holder of a Certificated Note must (1) complete and manually sign the Conversion Notice, with appropriate signature guarantee, or facsimile of the Conversion Notice and deliver the completed Conversion Notice to the Conversion Agent, (2) surrender the Note to the Conversion Agent, (3) furnish appropriate endorsements and transfer documents if required by the Registrar or Conversion Agent, (4) pay the amount of interest, if any, required by Section 9.02(c), and (5) pay any tax or duty if required pursuant to Section 9.04. If a Holder holds a beneficial interest in a Global Note, to convert such Note, the Holder must comply with clauses (4) and (5) above and the Depository's procedures for converting a beneficial interest in a Global Note.

Upon conversion of a Holder's Note, in satisfaction of its conversion obligation, the Company shall pay or deliver, as the case may be, at its election, through the Conversion Agent, (i) shares of Common Stock, together with cash in lieu of any fractional share ("**Physical Settlement**"), (ii) cash ("**Cash Settlement**"), or (iii) a combination of cash and shares of Common Stock, together with cash in lieu of any fractional share ("**Combination Settlement**") as set forth in this Section 9.02(a). The Company, or the Trustee at the direction of the Company and in the Company's name and at its expense, shall inform Holders of the Settlement Method it elects to satisfy its obligation upon conversion (and the Specified Cash Amount, if applicable, as follows):

(i) in respect of Notes converted with a Conversion Date that is after the forty-fifth (45th) Scheduled Trading Day immediately preceding the Stated Maturity, no later than the forty-fifth (45th) Scheduled Trading Day immediately preceding the Stated Maturity; and

(ii) in all other cases, no later than the Business Day following the applicable Conversion Date;

provided, however, that if the Company calls any Notes for redemption, then (x) the Company will specify in the related redemption notice the Settlement Method that will apply to all conversions with a Conversion Date that occurs on or after the date the Company sends such redemption notice and before the related Redemption Date; and (y) if the related Redemption Date is after the forty-fifth (45th) Scheduled Trading Day immediately preceding the Stated Maturity, then such Settlement Method must be the same Settlement Method that applies to all conversions with a Conversion Date that occurs on or after the forty-fifth (45th) Scheduled Trading Day immediately preceding the Stated Maturity. Except as provided in the preceding sentence, the Company must use the same Settlement Method for all conversions with a Conversion Date that occur on the same day, but the Company will not be obligated to use the same Settlement Method for conversions with Conversion Dates that occur on different days.

If the Company fails to give notice within the time periods provided for in the immediately preceding sentence as to how it intends to settle its conversion obligation with respect to such Notes, then the Company will be deemed to have elected the Default Settlement Method and such failure will not be deemed to be a Default. If the Company elects Combination Settlement but fails to specify the Specified Cash Amount, then the Specified Cash Amount will be deemed to be \$1,000 per \$1,000 principal amount of Notes.

The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to irrevocably fix the Settlement Method, or to irrevocably elect Combination Settlement and eliminate a Specified Cash Amount or range of Specified Cash Amounts, in each case that will apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. Such Settlement Method must be a Settlement Method that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this Section 9.02(a)) If the Company irrevocably elects Combination Settlement and eliminates a Specified Cash Amount or a range of Specified Cash Amounts, then (i) the Company will simultaneously change the Default Settlement Method, if needed, to Combination Settlement with a Specified Cash Amount that is consistent with such irrevocable election; and (ii) the Company will continue to have the ability to elect the Specified Cash Amount (to any Specified Cash Amount that is consistent with such irrevocable election) for subsequent conversions of Notes in the manner, and within the time periods, set forth above. Notwithstanding the foregoing, no such change in the Default Settlement Method or irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to this Section 9.02(a). For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend the Indenture or the Notes, including pursuant to Section 8.01(l). However, the Company may nonetheless choose to execute such an amendment at its option. If the Company sends such notice irrevocably fixing the Settlement Method, such notice must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. If the Company changes the Default Settlement Method or irrevocably fixes the Settlement Method pursuant to this paragraph, then the Company will either post the Default Settlement Method or fixed Settlement Method, as applicable, on its website or disclose the same in a Current Report on Form 8-K (or any successor form) that is filed with the SEC.

Except as provided in Sections 9.06, 9.12 and 9.15, the Company will pay or deliver, as applicable, the consideration due upon conversion as follows: (i) if Cash Settlement or Combination Settlement applies, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of such Observation Period; and (ii) if Physical Settlement applies, on or before the second (2nd) Business Day immediately after such Conversion Date (or, if such Conversion Date occurs after February 1, 2026, on the Stated Maturity (or, if the Stated Maturity is not a Business Day, the next Business Day)).

The amount of cash and number of shares of Common Stock, as the case may be, due upon conversion of Notes will be as follows:

(1) If the Company elects (or is deemed to have elected) Physical Settlement, the Company shall deliver to each converting Holder a number of shares of Common Stock equal to (i) (A) the aggregate principal amount of Notes to be converted, *divided by* (B) \$1,000 *multiplied by* (ii) the Conversion Rate in effect on the relevant Conversion Date (*provided* that the Company shall deliver cash in lieu of fractional shares as provided in Section 9.03).

(2) If the Company elects (or is deemed to have elected) Cash Settlement, the Company shall pay to each converting Holder, for each \$1,000 principal amount of Notes so converted, cash in an amount equal to the sum of the Daily Conversion Values for each of the forty (40) consecutive VWAP Trading Days in the relevant Observation Period.

(3) If the Company elects (or is deemed to have elected) Combination Settlement, the Company shall deliver to each converting Holder, for each \$1,000 principal amount of Notes to be converted, cash and shares of Common Stock, if any, equal to the sum of the Daily Settlement Amounts for each of the forty (40) consecutive VWAP Trading Days in the relevant Observation Period (*provided* that the Company will deliver cash in lieu of fractional shares as provided in Section 9.03).

The Daily Settlement Amounts (if applicable) and the Daily Conversion Values (if applicable) shall be determined by the Company promptly following the last day of the applicable Observation Period. Promptly after such determination of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash deliverable in lieu of fractional shares (if any), the Company shall notify the Trustee and the Conversion Agent of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash deliverable in lieu of fractional shares (if any). The Trustee and the Conversion Agent shall have no responsibility for any such determination.

(b) A Holder receiving shares of Common Stock upon conversion shall not be entitled to any rights as a holder of Common Stock, including, among other things, the right to vote, respond to tender offers and receive dividends and notices of shareholder meetings, until the close of business on the Conversion Date (in the case of Physical Settlement) or the close of business on the last VWAP Trading Day of the applicable Observation Period (in the case of Combination Settlement). On and after the Conversion Date with respect to a conversion of a Note pursuant hereto, all rights of the Holder of such Note shall terminate, other than the right to receive the consideration deliverable upon conversion of such Note as provided herein (and, if applicable, any interest payment as provided in Section 9.02(c)).

(c) Except as provided in the Notes or in this Article 9, no payment or adjustment will be made for accrued interest, if any, on a converted Note or for dividends on any Common Stock issued on or prior to conversion, and accrued interest, if any, will be deemed to be paid by the consideration paid to the Holder upon conversion. On conversion of a Note, accrued interest, if any, with respect to the converted Note shall not be cancelled, extinguished or forfeited, but rather shall be deemed to be paid in full to the Holder thereof through delivery of the Common Stock (together with the cash payment, if any, in lieu of fractional shares), or cash or a combination of cash and Common Stock in lieu thereof, in exchange for the Note being converted pursuant to the provisions hereof; and the fair market value of such shares of Common Stock (together with any such cash payment in lieu of fractional shares), or cash or a combination of cash and Common Stock in lieu thereof, shall be treated as delivered, to the extent thereof, first in exchange for accrued interest, if any, and the balance, if any, of the fair market value of such Common Stock (and any such cash payment in lieu of fractional shares), or cash in lieu thereof, shall be treated as delivered in exchange for the remaining principal payments due on the Note being converted pursuant to the provisions hereof. If any Holder surrenders a Note for conversion after the close of business on the Interest Record Date for the payment of an installment of interest and prior to the open of business on the next Interest Payment Date, then, notwithstanding such conversion, the full amount of accrued and unpaid interest payable with respect to such Note on such Interest Payment Date shall be paid on such Interest Payment Date to the Holder of record of such Note at the close of business on such Record Date; *provided, however*, that such Note, when surrendered for conversion, must be accompanied by payment in cash to the Conversion Agent on behalf of the Company of the full amount equal to the accrued and unpaid interest payable on such Interest Payment Date on the portion so converted; *provided further, however*, that such payment to the Conversion Agent provided for in the immediately preceding proviso in respect of a Note surrendered for conversion shall not be required with respect to a Note that (i) the Company has specified a Redemption Date that is after an Interest Record Date but on or prior to the second Business Day immediately after the corresponding Interest Payment Date (ii) is surrendered for conversion after the close of business on February 1, 2026, the Interest Record Date immediately preceding the Stated Maturity or (iii) is surrendered for conversion after the close of business on an Interest Record Date for the payment of an installment of interest and on or before the Business Day immediately after the related Interest Payment Date, where, pursuant to Section 4.07, the Company has specified, a Fundamental Change Repurchase Date that is after such Interest Record Date and on or before such Interest Payment Date; *provided further* that, if the Company shall have, prior to the Conversion Date with respect to a Note, defaulted in a payment of interest on such Note, then in no event shall the Holder of such Note who surrenders such Note for conversion be required to pay such defaulted interest or the interest that shall have accrued on such defaulted interest pursuant to Section 2.14 of the Base Indenture or otherwise (it being understood that nothing in this Section 9.02(c) shall affect the Company's obligations under Section 2.14 of the Base Indenture).

(d) If a Holder converts more than one Note at the same time, the number of full shares of Common Stock issuable upon such conversion, if any, shall be based on the total principal amount of all Notes converted.

(e) Upon surrender of a Note that is converted in part, the Trustee shall authenticate for the Holder a new Note equal in principal amount to the unconverted portion of the Note surrendered.

(f) If the last day on which a Note may be converted is not a Business Day in a place where a Conversion Agent is located, the Note may be surrendered to that Conversion Agent on the next succeeding day that is a Business Day.

Section 9.03 Cash In Lieu Of Fractional Shares.

The Company will not issue a fractional share of Common Stock upon conversion of a Note. Instead, the Company shall pay cash in lieu of fractional shares based on the Closing Sale Price of the Common Stock on the Conversion Date (in the case of Physical Settlement) or the Volume-Weighted Average Price per share of the Common Stock on the last Trading Day of the relevant Observation Period (in the case of Combination Settlement).

Section 9.04 Taxes On Conversion.

If a Holder converts its Note, the Company shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue and delivery, if any, of Common Stock upon the conversion. However, such Holder shall pay any such tax or duty that is due because such shares are issued in a name other than such Holder's name. The Conversion Agent may refuse to deliver a certificate representing the Common Stock to be issued in a name other than such Holder's name until the Conversion Agent receives a sum sufficient to pay any tax or duty that will be due because such shares are to be issued in a name other than such Holder's name.

Section 9.05 Company to Provide Common Stock.

The Company shall at all times reserve out of its authorized but unissued Common Stock or Common Stock held in its treasury enough shares of Common Stock to permit the conversion, in accordance herewith, of all of the Notes. The shares of Common Stock, if any, due upon conversion of a Global Note shall be delivered by the Company in accordance with the Depository's customary practices.

All shares of Common Stock that may be issued upon conversion of the Notes shall be validly issued, fully paid and non-assessable and shall be free of preemptive or similar rights and free of any lien or adverse claim.

The Company shall comply with all securities laws regulating the offer and delivery of shares of Common Stock upon conversion of Notes and shall list such shares on each national securities exchange or automated quotation system on which the shares of Common Stock are listed.

Section 9.06 Adjustment Of Conversion Rate.

The Conversion Rate shall be subject to adjustment from time to time, without duplication, upon the occurrence of any of the following events, except that the Company will not make any adjustment to the Conversion Rate if each Holder of Notes participates (other than in the case of a transaction described in Section 9.06(a) or Section 9.06(e)), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described in this Section 9.06 without having to convert such Holder's Notes as if such Holder held a number of shares of Common Stock equal to the Conversion Rate, *multiplied* by the principal amount (expressed in thousands) of Notes held by such Holder:

(a) If the Company issues shares of Common Stock as a dividend or distribution on the shares of Common Stock, or if the Company effects a share split or share combination, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,
CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be;

CR ₁	=	the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be;
OS ₀	=	the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution, or the open of business on the effective date of such share split or share combination, as the case may be; and
OS'	=	the number of shares of Common Stock outstanding immediately after such dividend or distribution, or such share split or share combination, as the case may be.

Any adjustment made under this Section 9.06(a) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this Section 9.06(a) is declared but not so paid or made, or any share split or combination of the type described in this Section 9.06(a) is announced but the outstanding shares of Common Stock are not split or combined, as the case may be, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, or not to split or combine the outstanding shares of Common Stock, as the case may be, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(b) If the Company distributes, to all or substantially all holders of the Common Stock, any rights, options or warrants entitling such Holders, for a period expiring not more than sixty (60) days immediately following the record date of such distribution, to purchase or subscribe for shares of Common Stock, at a price per share less than the average of the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date such distribution is announced, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR ₀	=	the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;
CR ₁	=	the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such distribution;

OS ₀	=	the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Dividend Date for such distribution;
X	=	the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and
Y	=	the number of shares of Common Stock equal to (x) the aggregate price payable to exercise such rights, options or warrants, <i>divided by</i> (y) the average of the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date such distribution is announced.

Any increase made under this Section 9.06(b) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such Ex-Dividend Date for such distribution had not occurred.

For purposes of this Section 9.06(b) and Section 9.01(b)(iv), in determining whether any rights, options or warrants entitle the holders thereof to subscribe for or purchase shares of Common Stock at less than such average of the Closing Sale Prices for the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date such distribution is announced, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, with the value of such consideration, if other than cash, to be determined by the Board of Directors. Except as provided in the last two sentences of the prior paragraph, in no event shall the Conversion Rate be decreased pursuant to this Section 9.06(b).

(c)

(i) If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other of its assets, securities or property, or rights, options or warrants to acquire the Company's Capital Stock or other securities, to all or substantially all holders of Common Stock, excluding (i) dividends, distributions or issuances covered by Section 9.06(a) and Section 9.06(b) (including, for the avoidance of doubt, any such dividends, distributions or issuance for which an adjustment to the Conversion Rate is not yet effected pursuant to such Section 9.06(a) or Section 9.06(b), as applicable, due to the application of the 1% Provision), (ii) dividends or distributions paid exclusively in cash referred to in Section 9.06(d) (including, for the avoidance of doubt, any such dividends or distributions for which an adjustment to the Conversion Rate is not yet effected pursuant to such Section 9.06(d) due to the application of the 1% Provision), (iii) dividends or distributions solely pursuant to a Common Stock Change Event, as to which Section 9.12 will apply, and (iv) Spin-Offs to which the provisions set forth in Section 9.06(c)(ii) shall apply (subject, for the avoidance of doubt, to the 1% Provision) (any of such shares of Capital Stock, evidences of indebtedness or other assets, securities or property, or rights, options or warrants to acquire the Company's Capital Stock or other securities, the "**Distributed Assets**"), then, in each such case the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where

- CR₀ = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;
- CR₁ = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such distribution;
- SP = the average of the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and
- FMV = the fair market value (as determined by the Board of Directors) of the shares of Capital Stock, evidences of indebtedness, assets, securities, property, rights, options or warrants distributed with respect to each outstanding share of Common Stock as of the open of business on the Ex-Dividend Date for such distribution.

If the Board of Directors determines "FMV" for purposes of this Section 9.06(c) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than the "SP₀" (as defined above), then, in lieu of the foregoing increase, each Holder of a Note shall receive, for each \$1,000 principal amount of Notes it holds, at the same time and upon the same terms as the holders of the Common Stock, the amount and kind of Distributed Assets that such Holder would have received as if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any increase made under this Section 9.06(c)(i) shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such distribution had not been declared.

(ii) If the Company dividends or distributes, to all or substantially all holders of the Common Stock, shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company (other than a distribution solely pursuant to a Common Stock Change Event, as to which Section 9.12 will apply) where such Capital Stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the Spin-Off) on a U.S. national securities exchange (a "Spin-Off"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + MP}{MP}$$

where

- CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for the Spin-Off;
- CR_1 = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off;
- FMV = the average of the Closing Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of Common Stock over the first ten (10) consecutive Trading Day period (the "Spin-Off Valuation Period") beginning on, and including, the Ex-Dividend Date for the Spin-Off; and
- MP_0 = the average of the Closing Sale Prices of the Common Stock over the Spin-Off Valuation Period.

The increase to the Conversion Rate under the preceding paragraph will be determined as of the end of the Spin-Off Valuation Period but will be given effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If a Note is converted and the Conversion Date (in the case of Physical Settlement) or any VWAP Trading Day of the applicable Observation Period (in the case of Cash Settlement or Combination Settlement) occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Spin-Off Valuation Period.

Except as provided in the last sentence of the fourth paragraph of Section 9.06(c)(i), in no event shall the Conversion Rate be decreased pursuant to this Section 9.06(c).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Common Stock, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - C}$$

where

- CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;
- CR_1 = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP = the Closing Sale Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution;
and
C = the amount in cash per share of Common Stock the Company dividends or distributes to holders of its Common Stock.

Such increase shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make or pay such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP₀" (as defined above), then, in lieu of the foregoing increase, each Holder of a Note shall receive, for each \$1,000 principal amount of Notes, at the same time and upon the same terms as holders of the Common Stock, the amount of cash such Holder would have received as if such Holder owned a number of shares of Common Stock equal to the Conversion Rate on the record date for such dividend or distribution.

Except as provided in the last sentence of the second paragraph of this Section 9.06(d), in no event shall the Conversion Rate be decreased pursuant to this Section 9.06(d).

(e) If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average (such average, the "**Reference Price**") of the Closing Sale Prices of the Common Stock over the ten (10) consecutive Trading-Day period (the "**Tender/Exchange Offer Valuation Period**") commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{OS_0 \times SP}$$

where

CR₀ = the Conversion Rate in effect immediately prior to the time (the "**Expiration Time**") such tender or exchange offer expires;
CR₁ = the Conversion Rate in effect immediately after the Expiration Time;
AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid or payable for shares of Common Stock purchased in such tender or exchange offer;
OS₀ = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (before giving effect to the purchase of all shares of the Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS₁ = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of the Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the Reference Price.

The adjustment to the Conversion Rate pursuant to this Section 9.06(e) will be determined as of the end of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date (in the case of Physical Settlement) or any VWAP Trading Day of the applicable Observation Period (in the case of Cash Settlement or Combination Settlement) occurs during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. In no event shall the Conversion Rate be decreased pursuant to this Section 9.06(e).

(f) Notwithstanding anything to the contrary in the Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to subsections (a), (b), (c), (d) and (e) of this Section 9.06;

(ii) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the consideration due upon such conversion (in the case of Physical Settlement) or due with respect to such VWAP Trading Day (in the case of Combination Settlement) includes any whole shares of Common Stock based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution,

then (x) such Conversion Rate adjustment will not be given effect for such conversion (in the case of Physical Settlement) or for such VWAP Trading Day (in the case of Combination Settlement); and (y) the shares of Common Stock, if any, issuable upon such conversion (in the case of Physical Settlement) or issuable with respect to such VWAP Trading Day (in the case of Combination Settlement) based on such unadjusted Conversion Rate will be entitled to participate in such dividend or distribution.

(g) Notwithstanding anything to the contrary, if:

(i) a Note is to be converted;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the conversion rate pursuant to subsections (a), (b), (c), (d) and (e) of this Section 9.06 has occurred on or before the Conversion Date for such conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the consideration due upon such conversion (in the case of Physical Settlement) or due in respect of such VWAP Trading Day (in the case of Combination Settlement) includes any whole shares of the Common Stock; and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will (x) deliver, on such date the Company is otherwise required by this Indenture, the consideration due upon such conversion based on the applicable unadjusted Conversion Rate(s); and (ii) deliver, on the Business Day immediately after such first date, any additional consideration arising from giving effect to such adjustment to the applicable Conversion Rate(s).

(h) As used in this Section 9.06, "**record date**" means, with respect to any dividend distribution or other transaction or event in which the holders of the Common Stock have the right to receive any cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(i) If the Company issues rights, options or warrants that are only exercisable upon the occurrence of certain triggering events, then (i) the Company will not adjust the Conversion Rate pursuant to the provisions described in subsections (a), (b), (c), (d) and (e), inclusive, of this Section 9.06 until the earliest of these triggering events occurs; and (ii) if an adjustment was made to the Conversion Rate on account of such issuance pursuant to subsection (b) of this Section 9.06, then the Company will readjust the Conversion Rate to the extent any of these rights, options or warrants are not exercised before they expire.

(j) In addition to the foregoing adjustments in subsections (a), (b), (c), (d) and (e) above, the Company may, from time to time and to the extent permitted by law and the continued listing requirements of the NYSE, increase the Conversion Rate by any amount for a period of at least twenty (20) Business Days or any longer period as may be permitted or required by law, if the Board of Directors has made a determination, which determination shall be conclusive, that such increase would be in the best interests of the Company. Such Conversion Rate increase shall be irrevocable during such period. The Company shall give notice to the Trustee and cause notice of such increase to be sent to each Holder, no later than the first day on which such increase commences.

(k) All calculations under this Article 9 shall be made to the nearest cent or to the nearest one-millionth of a share, as the case may be. Adjustments to the Conversion Rate will be calculated to the nearest 1/10,000th.

Section 9.07 No Adjustment.

Notwithstanding anything herein or in the Notes to the contrary, in no event shall the Conversion Rate be adjusted:

(a) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in the Common Stock under any plan;

(b) upon the issuance of any shares of Common Stock or restricted stock, restricted stock units, non-qualified stock options, incentive stock options or any other options or rights (including stock appreciation rights) to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(c) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (b) above and outstanding as of the date the Notes were first issued;

(d) for a third party tender offer by any party other than a tender offer by one or more of the Company's Subsidiaries set forth in Section 9.06(e);

(e) solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act;

(f) for accrued and unpaid Interest, if any;

(g) upon the repurchase of any shares of Common Stock pursuant to an open-market share repurchase program or other buy-back transaction, including structured or derivative transactions, that is not a tender offer or exchange offer of the nature described in Section 9.06; or

(h) for a change in the par value of shares of Common Stock.

No adjustment in the Conversion Rate pursuant to Section 9.06 shall be required until cumulative adjustments amount to one percent (1%) or more of the Conversion Rate as last adjusted (or, if never adjusted, the initial Conversion Rate); *provided, however*, that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments would result in a change of at least 1% to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make-Whole Fundamental Change occurs; (iv) the date the Company calls any Notes for redemption; and (iv) November 17, 2025. The provisions of this paragraph are referred to herein as the “**1% Provision**.”

No adjustment to the Conversion Rate need be made pursuant to Section 9.06 for a transaction (other than for share splits or share combinations pursuant to Section 9.06(a)) if the Company provides for each Holder to participate in the transaction, at the same time that holders of Common Stock participate in such transaction, without conversion, as if such Holder held a number of shares of Common Stock equal to a fraction whose numerator is the product of the Conversion Rate in effect on the record date or effective date, as applicable, of the transaction (without giving effect to any adjustment pursuant to Section 9.06 on account of such transaction) and the aggregate principal amount of Notes held by such Holder and whose denominator is one thousand dollars (\$1,000).

Section 9.08 Other Adjustments.

In the event that, as a result of an adjustment made pursuant to Section 9.06 hereof, the Holder of any Note thereafter surrendered for conversion shall become entitled to receive any shares of Capital Stock other than Common Stock, thereafter the Conversion Rate of such other shares so receivable upon conversion of any Note shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Common Stock contained in this Article 9.

Section 9.09 Adjustments For Tax Purposes.

Except as prohibited by law the Company may (but is not obligated to) increase the Conversion Rate, in addition to those required by Section 9.06 hereof, as it determines to be advisable in order that any stock dividend, subdivision of shares, distribution of rights to purchase stock or securities or distribution of securities convertible into or exchangeable for stock made by the Company or to its shareholders will not be taxable to the recipients thereof or in order to avoid or diminish any such taxation.

Section 9.10 Notice Of Adjustment.

Whenever the Conversion Rate is adjusted, the Company shall promptly send to Holders at the addresses appearing on the Registrar’s books a notice of the adjustment and file with the Trustee an Officers’ Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment.

Section 9.11 Notice Of Certain Transactions.

In the event that:

- (1) the Company takes any action, or becomes aware of any event, which would require an adjustment in the Conversion Rate,
- (2) the Company takes any action that would require a supplemental indenture pursuant to Section 9.12, or
- (3) there is a dissolution or liquidation of the Company,

the Company shall send to Holders at the addresses appearing on the Registrar’s books and the Trustee a written notice stating the proposed record, effective or expiration date, as the case may be, of any transaction referred to in clause (1), (2) or (3) of this Section 9.11. The Company shall send such notice at least twenty (20) calendar days (or, in the case of any event that would require an adjustment in the Conversion Rate pursuant to Section 9.06(b), Section 9.06(c), Section 9.06(d) or Section 9.06(e), thirty (30) Business Days) before such date; however, failure to send such notice or any defect therein shall not affect the validity of any transaction referred to in clause (1), (2) or (3) of this Section 9.11.

If the Company:

- (i) reclassifies the Common Stock (other than a change only in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination of Common Stock to which Section 9.06 applies);
- (ii) is a party to a consolidation, merger or binding statutory share exchange; or
- (iii) sells, transfers, leases, conveys or otherwise disposes of all or substantially all of the consolidated property or assets of the Company,

in each case pursuant to which the Common Stock would be converted into or exchanged for, or would constitute solely the right to receive, cash, securities or other property, including any combination thereof (such an event, a “**Common Stock Change Event**,” and such cash, securities or property, the “**Reference Property**,” and the amount and kind of reference property that a holder of one share of the Common Stock would be entitled to receive on account of such Common Stock Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a “**Reference Property Unit**”), then, notwithstanding anything to the contrary,

(A) at the effective time of such Common Stock Change Event, (i) the consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of shares of Common Stock in this Article 9 (or in any related definitions) were instead a reference to the same number of Reference Property Units; (ii) for purposes of Section 4.01, each reference to any number of shares of the Common Stock in such provisions (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (iii) for purposes of the definition of “Fundamental Change,” “Change of Control,” “Termination of Trading” and “Make-Whole Fundamental Change,” the terms “Common Stock” and “common equity” will be deemed to mean the common equity (or American Depositary Shares representing common equity), if any, forming part of such Reference Property;

(B) if such Reference Property Unit consists entirely of cash, then the Company will be deemed to elect Cash Settlement in respect of all conversions whose Conversion Date occurs on or after the effective date of such Common Stock Change Event and will pay the cash due upon such conversions no later than the second (2nd) Business Day after such Conversion Date; and

(C) for these purposes, the Volume-Weighted Average Price or Closing Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Common Stock Change Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of shareholder election), then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of the Common Stock. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

The Company shall not become a party to any Common Stock Change Event unless its terms are consistent with this Section 9.12.

None of the foregoing provisions of this Section 9.12 shall affect the right of a Holder to convert its Notes into cash, shares of Common Stock or a combination of cash and shares of Common Stock, in accordance with Section 9.01 and Section 9.02 hereof, prior to the effective date of such Common Stock Change Event.

In the event the Company shall execute a supplemental indenture in accordance with this Section 9.12 in connection with a Common Stock Change Event, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any such Common Stock Change Event and any adjustment to be made with respect thereto. The supplemental indenture referred to in the first sentence of this paragraph shall provide for adjustments of the Conversion Rate that shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article 9. If, in the case of any such consolidation, merger, binding share exchange, sale, transfer, lease, conveyance or disposition, the stock or other securities and property (including cash) receivable thereupon by a holder of Common Stock includes shares of stock or other securities and property of a Person other than the successor or purchasing Person, as the case may be, in such consolidation, merger, binding share exchange, sale, transfer, lease, conveyance or disposition, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders as the Board of Directors in good faith shall reasonably determine necessary by reason of the foregoing (which determination shall be described in a Board Resolution). The provisions of this Section 9.12 shall similarly apply to successive consolidations, mergers, binding share exchanges, sales, transfers, leases, conveyances or dispositions.

Section 9.13 *Trustee's Disclaimer.*

The Trustee has no duty to determine when an adjustment under this Article 9 should be made, how it should be made or what such adjustment should be, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto that the Company is obligated to file with the Trustee pursuant to Section 9.10 hereof. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Notes, and the Trustee shall not be responsible for the failure by the Company to comply with any provisions of this Article 9.

The Trustee shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 9.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto that the Company is obligated to file with the Trustee pursuant to Section 9.12 hereof.

Section 9.14 Rights Distributions Pursuant To Shareholders' Rights Plans.

Upon conversion of any Note or a portion thereof, the Company shall make provision such that the Holder thereof shall, to the extent such Holder is to receive shares of Common Stock upon such conversion, receive, in addition to, and concurrently with the delivery of, such shares of Common Stock upon conversion, the rights described in any future shareholders' rights plan(s) of the Company then in effect, unless the rights have separated from the Common Stock prior to the time of conversion in accordance with the provisions of the applicable rights plan, in which case the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all holders of Common Stock, Distributed Assets as described in Section 9.06(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 9.15 Increased Conversion Rate Applicable To Certain Notes Surrendered In Connection With Make-Whole Fundamental Changes.

(a) If, prior to the Stated Maturity, there occurs any event or transaction (a "Make-Whole Fundamental Change") that constitutes a Fundamental Change (determined after giving effect to any exceptions to or exclusions from such definition (including, for the avoidance of doubt, after giving effect to the proviso immediately after clause (3) of the definition of Change of Control), but excluding the Non-Ownership Change of Control exception), then, notwithstanding anything herein to the contrary, the Conversion Rate applicable to each Note that is surrendered for conversion, in accordance with this Article 9, at any time during the period (the "Make-Whole Conversion Period") from, and including, the effective date (the "Effective Date") of a Make-Whole Fundamental Change (which Effective Date the Company shall disclose in the notice referred to in Section 9.15(e)) to, and including, the date that is thirty-five (35) Business Days after such Effective Date (or, if such Make-Whole Fundamental Change also constitutes a Fundamental Change (other than an Exempted Fundamental Change), to the close of business on the Business Day prior to the Fundamental Change Repurchase Date corresponding to such Fundamental Change) shall be increased to an amount equal to the Conversion Rate that would, but for this Section 9.15, otherwise apply to such Note pursuant to this Article 9, plus an amount equal to the Make-Whole Applicable Increase.

(b) As used herein, "Make-Whole Applicable Increase" shall mean, with respect to a Make-Whole Fundamental Change, the amount, set forth in the following table, which corresponds to the Effective Date and the Applicable Price of such Make-Whole Fundamental Change:

Effective Date	Applicable Stock Price											
	\$4.81	\$6.00	\$6.97	\$8.00	\$9.07	\$12.00	\$15.00	\$20.00	\$40.00	\$60.00	\$80.00	\$100.00
August 14, 2020	64.5207	46.1183	37.1851	30.7763	26.0628	18.1950	13.6533	9.2460	2.8443	0.9457	0.2316	0.0000
February 15, 2021	64.5207	44.2467	35.3529	29.0825	24.5402	17.0833	12.8280	8.7120	2.7143	0.9132	0.2269	0.0000
February 15, 2022	64.5207	40.1117	31.2166	25.2263	21.0628	14.5375	10.9307	7.4635	2.3838	0.8197	0.2051	0.0000
February 15, 2023	64.5207	35.5500	26.4433	20.7113	16.9835	11.5650	8.7087	5.9815	1.9620	0.6935	0.1773	0.0000
February 15, 2024	64.5207	30.6400	20.8666	15.3500	12.1665	8.1208	6.1313	4.2380	1.4295	0.5222	0.1354	0.0000
February 15, 2025	64.5207	25.5650	14.0043	8.7375	6.4300	4.1742	3.1680	2.2050	0.7680	0.2945	0.0793	0.0000
February 15, 2026	64.5207	23.2867	0.0933	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

provided, however, that:

(i) if the actual Applicable Price of such Make-Whole Fundamental Change is between two (2) Applicable Prices listed in the table above under the column titled "Applicable Price," or if the actual Effective Date of such Make-Whole Fundamental Change is between two Effective Dates listed in the table above in the row immediately below the title "Effective Date," then the Make-Whole Applicable Increase for such Make-Whole Fundamental Change shall be determined by linear interpolation between the Make-Whole Applicable Increases set forth for such higher and lower Applicable Prices, or for such earlier and later Effective Dates based on a three hundred and sixty-five (365) or three hundred and sixty-six (366) day year, as applicable;

(ii) if the actual Applicable Price of such Make-Whole Fundamental Change is greater than \$100.00 per share (subject to adjustment in the same manner as the Applicable Prices pursuant to Section 9.15(b)(iii)), or if the actual Applicable Price of such Make-Whole Fundamental Change is less than \$4.81 per share (subject to adjustment in the same manner as the Applicable Prices pursuant to Section 9.15(b)(iii)), then the Make-Whole Applicable Increase shall be equal to zero (0);

(iii) if an event occurs that requires, pursuant to this Article 9 (other than solely pursuant to this Section 9.15), an adjustment to the Conversion Rate, then, on the date and at the time such adjustment is so required to be made, each Applicable Price set forth in the table above under the column titled "Applicable Price" shall be deemed to be adjusted so that such Applicable Price, at and after such time, shall be equal to the product of (1) such Applicable Price as in effect immediately before such adjustment to such Applicable Price and (2) a fraction whose numerator is the Conversion Rate in effect immediately before such adjustment to the Conversion Rate and whose denominator is the Conversion Rate to be in effect, in accordance with this Article 9, immediately after such adjustment to the Conversion Rate;

(iv) each Make-Whole Applicable Increase amount set forth in the table above shall be adjusted in the same manner, for the same events and at the same time as the Conversion Rate is to be adjusted pursuant to Section 9.06 through Section 9.14; and

(v) in no event shall the Conversion Rate applicable to any Note be increased pursuant to this Section 9.15 to the extent, but only to the extent, such increase shall cause the Conversion Rate applicable to such Note to exceed 207.9002 shares of Common Stock per \$1,000 principal amount (the "**Maximum Conversion Rate**"); *provided, however*, that the Maximum Conversion Rate shall be adjusted at the same time and in the same manner in which, and for the same events for which, the Conversion Rate is to be adjusted pursuant to this Article 9.

(c) Upon surrender of Notes for conversion in connection with a Make-Whole Fundamental Change pursuant to Section 9.01(b)(iii), the Company shall, at its option, satisfy its conversion obligation by delivering or paying, as the case may be, shares of Common Stock (together with cash in lieu of any fractional share), cash or a combination of cash and shares of Common Stock (together with cash in lieu of any fractional share) in accordance with Section 9.02; *provided, however*, that if at the effective time of a Make-Whole Fundamental Change the consideration for the Common Stock is comprised entirely of cash, then, for any conversion of Notes with a Conversion Date occurring on or after the Effective Date of such Make-Whole Fundamental Change, the conversion obligation shall be calculated based solely on the Applicable Price for the transaction and shall be deemed to be an amount, per \$1,000 principal amount of converted Notes, equal to the applicable Conversion Rate (including any Make-Whole Applicable Increase), *multiplied by* such Applicable Price. In such event, the cash due upon conversion shall be determined and paid to Holders in cash on the second (2nd) Business Day following such Conversion Date.

(d) As used herein, “**Applicable Price**” shall have the following meaning with respect to a Make-Whole Fundamental Change: (a) if such Make-Whole Fundamental Change constitutes a transaction or series of related transactions described in clause (3) of the definition of Change of Control, and the consideration (excluding cash payments for fractional shares or pursuant to statutory dissenters’ or appraisal rights) for the Common Stock in such Make-Whole Fundamental Change consists solely of cash, then the “Applicable Price” with respect to such Make-Whole Fundamental Change shall be equal to the cash amount paid per share of Common Stock in such Make-Whole Fundamental Change and (b) in all other circumstances, the “Applicable Price” with respect to such Make-Whole Fundamental Change shall be equal to the average of the Closing Sale Prices of the Common Stock for the five (5) consecutive Trading Days immediately preceding, but excluding, the Effective Date of such Make-Whole Fundamental Change, which average shall be appropriately adjusted by the Board of Directors, in its good faith determination, to account for any adjustment, pursuant hereto, to the Conversion Rate that shall become effective, or any event requiring, pursuant hereto, an adjustment to the Conversion Rate where the Ex-Dividend Date of such event occurs, at any time during such five (5) consecutive Trading Days.

(e) The Company shall send to the Trustee, the Conversion Agent and the Holders notice of the Effective Date of any Make-Whole Fundamental Change and the applicable Make-Whole Applicable Increase in accordance with Section 9.01(b)(iii).

(f) For avoidance of doubt, the provisions of this Section 9.15 shall not affect or diminish the Company’s obligations, if any, pursuant to Article 4 with respect to a Make-Whole Fundamental Change.

(g) Nothing in this Section 9.15 shall prevent an adjustment to the Conversion Rate pursuant to Section 9.06 in respect of a Make-Whole Fundamental Change.

ARTICLE 10 MISCELLANEOUS

Section 10.01 Trust Indenture Act Controls. If any provision of the Indenture limits, qualifies, or conflicts with another provision that is required to be included in the Indenture by the TIA, the required provision shall control.

Section 10.02 Notices. Any request, demand, authorization, notice, waiver, consent or communication by the Company or the Trustee to the other is duly given if in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission to the following facsimile numbers:

if to the Company:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Facsimile: (281) 618-0505
Attn: General Counsel

if to the Trustee:

The Bank of New York Mellon Trust Company, N.A.
2 North LaSalle Street, 7th floor, Suite 700
Chicago, IL 60602
Facsimile: (312) 827-8522
Attn: Corporate Trust – Glen Ford

The Company or the Trustee by notice given to the other in the manner provided above may designate additional or different addresses for subsequent notices or communications.

Failure to send a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not received by the addressee; *provided, however*, that no notice to the Trustee shall be deemed to be duly given unless and until the Trustee actually receives same at the address given above.

If the Company sends a notice or communication to the Securityholders, it shall send a copy to the Trustee and each Registrar, Paying Agent, Conversion Agent or co-registrar.

The Trustee shall have the right, but shall not be required, to rely upon and comply with notices, instructions, directions or other communications sent by e-mail, facsimile and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Company. The Trustee shall have no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorized to give instructions or directions on behalf of the Company; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Company as a result of such reliance upon or compliance with such notices, instructions, directions or other communications. The Company agrees to assume all risks arising out of the use of such electronic methods to submit notices, instructions, directions or other communications to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties. The Company shall use all reasonable endeavors to ensure that any such notices, instructions, directions or other communications transmitted to the Trustee pursuant to the Indenture are complete and correct. Any such notices, instructions, directions or other communications shall be conclusively deemed to be valid instructions from the Company to the Trustee for the purposes of the Indenture.

Section 10.03 Communication by Holders with Other Holders. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under the Indenture or the Notes.

The Company, the Trustee, the Registrar, the Paying Agent, the Conversion Agent and anyone else shall have the protection of TIA Section 312(c).

Section 10.04 Separability Clause. In case any provision in this Supplemental Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 10.05 Rules by Trustee, Paying Agent, Conversion Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Securityholders. The Registrar, the Conversion Agent and the Paying Agent may make reasonable rules for their functions.

Section 10.06 Execution as Supplemental Indenture. The Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed. This Supplemental Indenture is executed and shall be construed as an indenture supplemental to the Indenture and, as provided in the Indenture, the Indenture shall be and be deemed to be modified and amended in accordance herewith, and all of the terms and conditions of this Supplemental Indenture shall be and be deemed to be part of the terms and conditions of the Indenture for any and all purposes.

Section 10.07 Responsibility for Recitals, Etc. The recitals herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representations as to the validity, sufficiency or adequacy of this Supplemental Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of the Notes or of the proceeds thereof. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Base Indenture relating to the conduct of or affecting the liability of or affording protection to the Trustee.

Section 10.08 Governing Law. This Supplemental Indenture and each Note shall be governed by and construed in accordance with the laws of the State of New York.

Section 10.09 Counterparts. This Supplemental Indenture may be executed in any number of counterparts, and by each party hereto on separate counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. Signatures of the parties hereto transmitted by facsimile or electronic (i.e., ".pdf" or ".tif") transmission shall be deemed to be their original signatures for all purposes.

The words "execution," "executed," "signed," "signature," and words of like import in this Supplemental Indenture shall include images of manually executed signatures transmitted by facsimile, email or other electronic format (including, without limitation, ".pdf," ".tif" or ".jpg") and electronic signatures using DocuSign and Adobe Sign. The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Without limitation to the foregoing, and anything in this Supplemental Indenture to the contrary notwithstanding, (a) any Officers' Certificate, Company Order, Opinion of Counsel, Security, certificate of authentication appearing on or attached to any Note or any other certificate, instrument, agreement or other document delivered pursuant to this Supplemental Indenture may be executed, attested and transmitted by any of the foregoing electronic means and formats and (b) all references in Section 3.02 of this Supplemental Indenture, Section 2.04 of the Base Indenture, paragraph 19 of the Global Note or elsewhere in this Supplemental Indenture, the Base Indenture or the Global Note to the execution, attestation or authentication of any Security or any certificate of authentication appearing on or attached to any Security by means of a manual or facsimile signature shall be deemed to include signatures that are made or transmitted by any of the foregoing electronic means or formats.

Section 10.10 Tax Matters. Notwithstanding any other provision of this Indenture, if the Company or other applicable withholding agent pays withholding taxes or backup withholding on behalf of a Holder or beneficial owner as a result of an adjustment or the non-occurrence of an adjustment to the Conversion Rate, the Company or other applicable withholding agent may, at its option, set off such payments against payments of cash and shares of Common Stock on a Note (or any payments on the Common Stock) of or sales proceeds received by or other funds or assets of the Holder or beneficial owner.

Section 10.11 Waiver of Jury Trial. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Supplemental Indenture on behalf of the respective parties hereto as of the date first above written.

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief Financial Officer

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: /s/ Julie Hoffman-Ramos
Name: Julie Hoffman-Ramos
Title: Vice President

[FORM OF FACE OF GLOBAL NOTE]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

CUSIP: [] Principal Amount: \$[]

No. [] Original Issue Date: []

HELIX ENERGY SOLUTIONS GROUP, INC., a Minnesota corporation, promises to pay to Cede & Co. or registered assigns, the principal amount of [] Dollars (\$[]), on February 15, 2026.

Interest Rate: 6.75% per year.

Interest Payment Dates: February 15 and August 15 of each year, commencing [].

Interest Record Date: February 1 and August 1 of each year.

Except as otherwise provided in the Indenture referred to on the reverse hereof, interest will accrue from, and including, the last Interest Payment Date as of which interest has been duly paid or provided for (or, if no such Interest Payment Date, from, and including, []) to, but excluding, the next Interest Payment Date.

Reference is hereby made to the further provisions of this Note set forth on the reverse side of this Note, which further provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, the Company has caused this Security to be signed manually or by facsimile by its duly authorized officers.

Date: []

HELIX ENERGY SOLUTIONS GROUP, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee, certifies that this is one
of the Notes referred to in the
within-mentioned Indenture.

By

Authorized Signatory

Dated: []

6.75% Convertible Senior Notes Due 2026

This Note is one of a duly authorized issue of 6.75% Convertible Senior Notes Due 2026 (the “**Notes**”) of Helix Energy Solutions Group, Inc., a Minnesota corporation (including any successor corporation under the Indenture hereinafter referred to, the “**Company**”), issued under an Indenture, dated as of August 14, 2020 (the “**Base Indenture**”), as supplemented by a First Supplemental Indenture, dated as of August 14, 2020 (the “**Supplemental Indenture**” and together with the Base Indenture, the “**Indenture**”) between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”). The terms of the Note include those stated in the Indenture, those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“**TIA**”), and those set forth in this Note. This Note is subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control. Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture unless otherwise indicated.

1. Interest.

The Notes shall bear interest on the principal amount thereof at a rate of 6.75% per year.

Interest shall be payable semi-annually in arrears on each Interest Payment Date to Holders at the close of business on the preceding Interest Record Date. Interest shall be computed on the basis of a 360-day year comprised of twelve 30 day months.

The Company shall pay Interest to the Securityholder of record on the Interest Record Date even if the Company elects to redeem or Securityholders elect to require the Company to repurchase, the Notes on a date that is after an Interest Record Date but on or prior to the corresponding Interest Payment Date. In that instance, the Company shall pay accrued and unpaid Interest on the Notes being redeemed to, but not including, the Redemption Date or the Fundamental Change Repurchase Date, as the case may be, to the Securityholder of record on the Interest Record Date.

If the principal amount of any Note, or any accrued and unpaid Interest, are not paid when due (whether upon acceleration pursuant to Section 7.02 of the Indenture, upon the date set for payment of the Conversion Price Trigger Redemption Price pursuant to Section 5 hereof, upon the date set for payment of the Fundamental Change Repurchase Price pursuant to Section 6 hereof, upon the Stated Maturity of the Notes, or upon the Interest Payment Dates), then in each such case the overdue amount shall, to the extent permitted by law, bear cash interest at the rate of 6.75% per annum, compounded semiannually, which interest shall accrue from the date such overdue amount was originally due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable in cash on demand but if not so demanded shall be paid quarterly to the Holders on the last day of each quarter.

2. Method of Payment.

Except as provided below, the Company will pay, in money of the United States that at the time of payment is legal tender for payment of public and private debts, all amounts due in cash with respect to the Notes, which amounts shall be paid (A) in the case this Note is a Global Note, by wire transfer of immediately available funds to the account designated by the Depository or its nominee; (B) in the case this Note is a Certificated Note held by a Holder of more than five million dollars (\$5,000,000) in aggregate principal amount of Notes, by wire transfer of immediately available funds to the account specified by such Holder or, if such Holder does not specify an account, by mailing a check to the address of such Holder set forth in the register of the Registrar; and (C) in the case this Note is a Certificated Note held by a Holder of five million dollars (\$5,000,000) or less in aggregate principal amount of Notes, by mailing a check to the address of such Holder set forth in the register of the Registrar.

At Stated Maturity, the Company shall pay Interest on Certificated Notes at the Company's office or agency maintained for that purpose, which initially shall be the office or agency of the Trustee located at 240 Greenwich Street, New York, NY 10286.

Subject to the terms and conditions of the Indenture, the Company shall make payments in cash in respect of Conversion Price Trigger Redemption Prices, Fundamental Change Repurchase Prices, and at Stated Maturity to Holders who surrender Notes to a Paying Agent to collect such payments in respect of the Notes. The Company shall pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may make such cash payments by check payable in such money.

3. [Reserved].

4. Ranking; Additional Notes.

The Notes are general unsecured obligations of the Company. The Company may, without the consent of the Holders, reopen the Indenture and issue additional Notes with the same terms (subject to certain exceptions) as the Notes in an unlimited aggregate principal amount, *provided* that if the additional Notes are not fungible with the Notes offered hereby for United States federal income tax purposes, then they must be issued with a different CUSIP number. The Notes and any such additional Notes would be treated as a single class for all purposes under the Indenture and would vote together as one class on all matters with respect to the Notes.

The Indenture does not limit other indebtedness of the Company, secured or unsecured.

5. Redemption at the Option of the Company.

No sinking fund is provided for the Notes. On or after August 15, 2023 (but, in the case of a partial redemption, no later than the 40th Scheduled Trading Day immediately before the Stated Maturity), the Company, at its option, may redeem (a "**Conversion Price Trigger Redemption**") the Notes for U.S. legal tender ("**cash**") at any time, in whole or in part, upon not less than 45 nor more than 65 Scheduled Trading Days' notice, if the Closing Sale Price of the Common Stock has been at least 130% of the Conversion Price then in effect on (x) the Trading Day immediately preceding the date on which the Company provides a notice of redemption and (y) for at least 20 Trading Days (whether or not consecutive) during any 30 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date on which the Company provides a notice of redemption in accordance with Section 4.03 of the Supplemental Indenture. The redemption price for each \$1,000 principal amount of Notes to be redeemed (the "**Conversion Price Trigger Redemption Price**") shall be payable in cash and shall be equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, plus (ii) accrued and unpaid interest, if any, to, but excluding, the Redemption Date, plus (iii) the Make-Whole Premium (as defined in the Indenture). The Company must make these Make-Whole Premium payments on all Notes called for redemption prior to the Stated Maturity, including Notes subject to redemption that are converted after the date the Company delivered a notice of redemption.

In no event shall any Note be redeemable before August 15, 2023.

6. Purchase By the Company at the Option of the Holder.

At the option of the Holder and subject to the terms and conditions of the Indenture, the Company shall become obligated to repurchase the Notes held by such Holder after the occurrence of a Fundamental Change for a Fundamental Change Repurchase Price equal to the principal amount of those Notes plus accrued and unpaid Interest, if any, on those Notes up to, but not including, the Fundamental Change Repurchase Date.

Holders have the right to withdraw any Note surrendered for repurchase by delivering to the Paying Agent a written notice of withdrawal in accordance with the provisions of the Indenture.

If cash sufficient to pay the Fundamental Change Repurchase Price of all Notes or portions thereof to be purchased as of the Fundamental Change Repurchase Date, as the case may be, is deposited with the Paying Agent, Interest shall cease to accrue on such Notes (or portions thereof) on and following such Fundamental Change Repurchase Date, and the Holder thereof shall have no other rights as such other than the right to receive the Fundamental Change Repurchase Price upon surrender of such Note, subject to the terms of the Indenture.

7. Notice of Redemption.

Notice of redemption pursuant to Section 5 of this Note shall be sent at least forty-five (45) Scheduled Trading Days before the Redemption Date to each Holder to be redeemed. If money sufficient to pay the Conversion Price Trigger Redemption Price of all Notes (or portions thereof) to be redeemed on the Redemption Date is deposited with the Paying Agent prior to or on the Redemption Date, immediately on and after such Redemption Date, Interest shall cease to accrue on such Notes or portions thereof, subject to the terms of the Indenture. Notes in denominations larger than \$1,000 principal amount may be redeemed in part but only in integral multiples of \$1,000 of principal amount.

8. Conversion.

Upon the occurrence of certain events and during certain periods, the Notes shall be convertible into cash, shares of Common Stock, or a combination thereof in accordance with Article 9 of the Supplemental Indenture. To convert a Note, a Holder must satisfy the requirements of Section 9.02(a) of the Supplemental Indenture. A Holder may convert a portion of a Note if the portion is \$1,000 principal amount or an integral multiple of \$1,000 principal amount.

Notwithstanding anything herein to the contrary, no Note may be converted after the close of business on the Business Day immediately preceding the Stated Maturity.

Upon conversion of a Note, the Holder thereof shall be entitled to receive the cash, shares of Common Stock, or a combination thereof, payable upon conversion in accordance with Article 9 of the Supplemental Indenture.

The initial Conversion Rate is 143.3795 shares of Common Stock per \$1,000 principal amount of Notes (which results in an effective initial Conversion Price of approximately \$6.97 per share) subject to adjustment in the event of certain circumstances as specified in the Indenture. The Company will deliver cash in lieu of any fractional share.

The Conversion Rate applicable to each Note that is surrendered for conversion, in accordance with the Notes and Article 9 of the Supplemental Indenture, at any time during the Make-Whole Conversion Period with respect to a Make-Whole Fundamental Change shall be increased to an amount equal to the Conversion Rate that would, but for Section 9.15 of the Supplemental Indenture, otherwise apply to such Note pursuant to Article 9 of the Supplemental Indenture, plus an amount equal to the Make-Whole Applicable Increase.

9. Paying Agent, Conversion Agent and Registrar.

Initially, the Trustee shall act as Paying Agent, Conversion Agent and Registrar. The Company may appoint and change any Paying Agent, Conversion Agent or Registrar without notice, other than notice to the Trustee. The Company or any of its Subsidiaries or any of their Affiliates may act as Paying Agent, Conversion Agent or Registrar.

10. Denominations; Transfer; Exchange.

The Notes are in fully registered form, without coupons, in denominations of \$1,000 of principal amount and integral multiples of \$1,000. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not transfer or exchange any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) for a period of 15 days before the sending of a notice of redemption of Notes to be redeemed or any Notes in respect of which a Fundamental Change Repurchase Notice has been given and not withdrawn (except, in the case of a Note to be purchased in part, the portion of the Note not to be purchased).

11. Persons Deemed Owners.

The registered holder of this Note may be treated as the owner of this Note for all purposes.

12. Unclaimed Money or Notes.

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Notes that remains unclaimed for two years, subject to applicable abandoned property law. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors unless an applicable abandoned property law designates another person.

13. Amendment; Waiver.

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Notes may be amended with the written consent of the Holders of at least a majority in aggregate principal amount of the outstanding Notes and (ii) certain Events of Defaults may be waived with the written consent of the Holders of a majority in aggregate principal amount of the outstanding Notes. Subject to certain exceptions set forth in the Indenture, without the consent of any Securityholder, the Company and the Trustee may amend the Indenture or the Notes as set forth in Section 8.01 of the Indenture.

14. Defaults and Remedies.

If any Event of Default with respect to Notes shall occur and be continuing, the principal amount of the Notes and any accrued and unpaid Interest on all the Notes may be declared due and payable in the manner and with the effect provided in the Indenture.

15. Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

16. Calculations in Respect of Notes.

The Company or its agents shall be responsible for making all calculations called for under the Notes including, but not limited to, determination of the market prices for the Notes and of the Common Stock, the Conversion of the Notes, the Closing Sale Prices, the Volume-Weighted Average Prices, Daily Settlement Amounts and the Conversion Rates of the Notes, including adjustments to any of the foregoing required by the Indenture. Any calculations made in good faith and without manifest error shall be final and binding on all Holders. The Company or its agents shall be required to deliver to each of the Trustee and the Conversion Agent a schedule of its calculations and each of the Trustee and Conversion Agent shall be entitled to conclusively rely upon the accuracy of such calculations without independent verification.

17. United States Federal Income Tax Treatment.

The Company, and each Holder and beneficial owner of a Note, agree to treat the Notes as indebtedness for United States federal income tax purposes.

18. No Recourse Against Others.

A director, officer, employee or shareholder, as such, of the Company shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Securityholder waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

19. Authentication.

This Note shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's Certificate of Authentication on the other side of this Note.

20. Abbreviations.

Customary abbreviations may be used in the name of a Securityholder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with right of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

Governing Law.

THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN THE INDENTURE AND THIS NOTE.

Copy of Indenture.

The Company shall furnish to any Securityholder upon written request and without charge a copy of the Indenture that has in it the text of this Note in larger type. Requests may be made to:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North Suite 400
Houston, TX 77043
Attn: General Counsel
Facsimile No.: 281-618-0505

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

(Insert assignee's soc. sec. or tax ID no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint

_____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

(Sign exactly as your name appears on the other side of this Note)

Signature Guaranteed

Participant in a Recognized Signature

Guarantee Medallion Program

By: _____
Authorized Signatory

CONVERSION NOTICE

To convert this Note, check the box

To convert only part of this Note, state the principal amount to be converted (which must be \$1,000 or an integral multiple of \$1,000):

If you want the stock certificate made out in another person's name fill in the form below:

(Insert the other person's soc. sec. tax ID no.)

(Print or type other person's name, address and zip code)

SCHEDULE OF INCREASES AND DECREASES
OF GLOBAL NOTE

Initial Principal Amount of Global Note: [] (\$[]).

Date	Amount of Increase in Principal Amount of Global Note	Amount of Decrease in Principal Amount of Global Note	Principal Amount of Global Note After Increase or Decrease	Notation by Registrar or Note Custodian
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[FORM OF FACE OF CERTIFICATED NOTE]

HELIX ENERGY SOLUTIONS GROUP, INC.

6.75% Convertible Senior Notes Due 2026

CUSIP: [__]

Principal Amount: \$[__]

No.

HELIX ENERGY SOLUTIONS GROUP, INC., a Minnesota corporation, promises to pay to [__] or registered assigns, the principal amount of [__], on February 15, 2026.

Interest Rate: 6.75% per year.

Interest Payment Dates: February 15 and August 15 of each year, commencing [__].

Interest Record Date: February 1 and August 1 of each year.

Except as otherwise provided in the Indenture referred to on the reverse hereof, interest will accrue from, and including, the last Interest Payment Date as of which interest has been duly paid or provided for (or, if no such Interest Payment Date, from, and including, [__]) to, but excluding, the next Interest Payment Date.

Reference is hereby made to the further provisions of this Note set forth on the reverse side of this Note, which further provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, the Company has caused this Security to be signed manually or by facsimile by its duly authorized officers.

Date: []

HELIX ENERGY SOLUTIONS GROUP, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee, certifies that this is one
of the Notes referred to in the
within-mentioned Indenture.

By

Authorized Signatory

Dated: []

HELIX ENERGY SOLUTIONS GROUP, INC.
NOTICE OF REDEMPTION

[DATE]

CUSIP Number: [__]*

To the Holders of the 6.75% Convertible Senior Notes Due 2026 issued by Helix Energy Solutions Group, Inc.:

Helix Energy Solutions Group, Inc. (the “**Issuer**”) by this written notice hereby exercises, pursuant to Section 4.01 of that certain First Supplemental Indenture, dated as of August 14, 2020 (the “**Supplemental Indenture**”), to that certain Indenture, dated as of August 14, 2020 (the “**Base Indenture**” and together with the Supplemental Indenture, the “**Indenture**”), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Trustee (the “**Trustee**”) its right to redeem \$[___] aggregate principal amount of its 6.75% Convertible Senior Notes Due 2026 (the “**Notes**”). All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

Notice is hereby given pursuant to Section 4.03 of the Supplemental Indenture of the following:

1. Redemption Date: [__]
2. Conversion Price Trigger Redemption Price: \$[__]
3. Conversion Rate: The Notes are convertible at your option based on a current Conversion Rate of [__] shares of the Issuer’s common stock, no par value, per \$1,000 principal amount of Notes, subject to adjustment, during the period described below.
4. In order to receive payment of the [Conversion Price Trigger Redemption/Fundamental Change Repurchase] Price or the Conversion Price, as applicable, the Notes must be surrendered to the Paying Agent or the Conversion Agent, as applicable, at the appropriate address set forth below, by such method as you deem appropriate. If you mail your Notes, we recommend that for your own protection you may want to use registered mail, return receipt requested.

* The CUSIP numbers have been assigned to this issue by Standard & Poor’s Corporation and are included solely for the convenience of the Holders. Neither the Issuer nor the Trustee is responsible for the selection or use of the CUSIP number and no representation is hereby made regarding the correctness or accuracy of CUSIP number on the Notes.

By First Class/Registered/Certified Mail	By Express/Overnight Delivery	By Hand or In Person
The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.
[_____]	[_____]	[_____]
Attn: _____]	Attn: _____]	Attn: _____]

1. The Notes called for redemption may be converted at your option at any time from the date of this Notice of Redemption until 5:00 p.m. on the Business Day immediately prior to the Redemption Date set forth above.
2. The Notes called for redemption and not converted at your election prior to 5:00 p.m. on the Business Day immediately prior to Redemption Date set forth above shall be redeemed on the Business Day immediately following such Redemption Date.
3. If you elect to convert your Notes, you must satisfy the requirements for conversion set forth in your Notes.
4. In order for you to collect the Conversion Price Trigger Redemption Price, the Notes called for redemption must be surrendered by you by (i) effecting book entry transfer of the Notes or (ii) delivering Certificated Notes, together with necessary endorsements, as the case may be to the appropriate address set forth below, by such method as you deem appropriate. If you mail your Notes, we recommend that for your own protection you may want to use registered mail, return receipt requested.

By First Class/Registered/Certified Mail	By Express/Overnight Delivery	By Hand or In Person
The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.
[_____]	[_____]	[_____]
Attn: _____]	Attn: _____]	Attn: _____]

5. [The Notes bearing the following Certificate Number(s) in the principal amount set forth below opposite such Certificate Number(s) are being redeemed:

Certificate Number(s)	Principal Amount]
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6. Unless the Company defaults in making the payment of the Conversion Price Trigger Redemption Price owed to you, Interest on your Notes called for redemption shall cease to accrue on and after the Redemption Date.

PLEASE TAKE FURTHER NOTICE that, all payments of the [Conversion Price Trigger Redemption/Fundamental Change Repurchase] Price or Conversion Price, as applicable, in respect of the Notes shall be payable only to the extent that the requisite funds have actually been received or are being held by the Trustee in respect of the Notes, and the Trustee shall have no obligation to make any such payments to a holder of any Note except in respect of such funds.

Any questions regarding the foregoing may be directed to the Issuer, at:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: General Counsel

HELIX ENERGY SOLUTIONS GROUP, INC.

IMPORTANT TAX INFORMATION

Under current United States federal income tax law, an agent making payments with respect to the Notes may be obligated to withhold from payments to a Holder. Holders who are United States persons as defined in the Internal Revenue Code of 1986, as amended, who wish to avoid the application of these withholding provisions should submit a completed IRS Form W-9 when presenting the Notes for payment. Holders who are not United States persons should submit an appropriate completed IRS Form W-8.

**HELIX ENERGY SOLUTIONS GROUP, INC.
NOTICE OF OCCURRENCE
OF FUNDAMENTAL CHANGE**

[DATE]

CUSIP Number: [__]*

To the Holders of the 6.75% Convertible Senior Notes Due 2026 (the “Notes”) issued by Helix Energy Solutions Group, Inc.:

Helix Energy Solutions Group, Inc. (the “**Issuer**”) by this written notice hereby notifies you, pursuant to Section 4.07 of that certain First Supplemental Indenture, dated as of August 14, 2020 (the “**Supplemental Indenture**”) to that certain Indenture, dated as of August 14, 2020 (the “**Base Indenture**” and, together with the Supplemental Indenture, the “**Indenture**”), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Trustee (the “**Trustee**”) that a Fundamental Change (as such term and other capitalized terms used herein and not otherwise defined herein are defined in the Indenture) as described below has occurred. Included herewith is the form of Fundamental Change Repurchase Notice to be completed by you if you wish to have your Notes repurchased by the Issuer.

1. Fundamental Change: *[Insert brief description of the Fundamental Change and the date of the occurrence thereof].*
2. Date by which Fundamental Change Repurchase Notice must be delivered by you to Paying Agent in order to have your Notes repurchased:
3. Fundamental Change Repurchase Date:
4. Fundamental Change Repurchase Price:
5. Paying Agent and Conversion Agent:
6. Conversion Rate: To the extent described in Item 7 below, the Notes are convertible based on a current Conversion Rate of [__] shares of the Issuer’s common stock, no par value (the “**Common Stock**”), per \$1,000 principal amount of Notes, subject to adjustment.
7. The Notes as to which you have delivered a Fundamental Change Repurchase Notice to the Paying Agent may be converted if they are otherwise convertible pursuant to Article 9 of the Supplemental Indenture and the terms of the Notes only if you withdraw such Fundamental Change Repurchase Notice pursuant to the terms of the Indenture. You may be entitled to have your Notes converted into shares of Common Stock (or, at the option of the Issuer, cash or a combination of cash and shares of Common Stock):

* The CUSIP numbers have been assigned to this issue by Standard & Poor’s Corporation and are included solely for the convenience of the Holders. Neither the Issuer nor the Trustee is responsible for the selection or use of the CUSIP number and no representation is hereby made regarding the correctness or accuracy of CUSIP number on the Notes.

(i) during any fiscal quarter commencing after September 30, 2020 (and only during such fiscal quarter), if the Closing Sale Price of the Common Stock for at least 20 Trading Days (whether or not consecutive) in the 30 Trading Day period ending on the last Trading Day of the preceding fiscal quarter was 130% or more of the Conversion Price on such last Trading Day;

(ii) if the Issuer has called the Notes for redemption; or

(iii) upon the occurrence of certain specified corporate transactions described in the Indenture.

8. In order for you to collect the Fundamental Change Repurchase Price, the Notes as to which you have delivered a Fundamental Change Repurchase Notice must be surrendered by you by (i) effecting book entry transfer of the Notes or (ii) delivering Certificated Notes, together with necessary endorsements, as the case may be to the appropriate address set forth below, by such method as you deem appropriate. If you mail your Notes, we recommend that for your own protection you may want to use registered mail, return receipt requested.

By First Class/Registered/Certified Mail	By Express/Overnight Delivery	By Hand or In Person
The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.	The Bank of New York Mellon Trust Company, N.A.
[_____]	[_____]	[_____]
Attn: _____]	Attn: _____]	Attn: _____]

9. The Fundamental Change Repurchase Price for the Notes as to which you have delivered a Fundamental Change Repurchase Notice and not withdrawn such Notice shall be paid promptly following the later of the Business Day immediately following such Fundamental Change Repurchase Date and the date you deliver such Notes to The Bank of New York Mellon Trust Company, N.A.

10. In order to have the Issuer repurchase your Notes, you must deliver the Fundamental Change Repurchase Notice attached hereto, duly completed by you with the information required by such Fundamental Change Repurchase Notice and deliver such Fundamental Change Repurchase Notice to the Paying Agent at any time from 9:00 a.m. on the date of the occurrence of the Change of Control until 5:00 p.m. on the Fundamental Change Repurchase Date.

11. In order to withdraw any Fundamental Change Repurchase Notice previously delivered by you to the Paying Agent, you must deliver to the Paying Agent, by 5:00 p.m. on the Fundamental Change Repurchase Date, a written notice of withdrawal specifying (i) the certificate number, if any, of the Notes in respect of which such notice of withdrawal is being submitted, (ii) the principal amount of the Notes in respect of which such notice of withdrawal is being submitted and (iii) if you are not withdrawing your Fundamental Change Repurchase Notice for all of your Notes, the principal amount of the Notes that still remain subject to the original Fundamental Change Repurchase Notice.

12. Unless the Issuer defaults in making the payment of the Fundamental Change Repurchase Price owed to you, Interest on your Notes as to which you have delivered a Fundamental Change Repurchase Notice shall cease to accrue on and after the Fundamental Change Repurchase Date.

PLEASE TAKE FURTHER NOTICE that, all payments of the [Conversion Price Trigger Redemption/Fundamental Change Repurchase] Price or Conversion Price, as applicable, in respect of the Notes shall be payable only to the extent that the requisite funds have actually been received or are being held by the Trustee in respect of the Notes, and the Trustee shall have no obligation to make any such payments to a holder of any Note except in respect of such funds.

Any questions regarding the foregoing may be directed to the Issuer, at:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: General Counsel

HELIX ENERGY SOLUTIONS GROUP, INC.

IMPORTANT TAX INFORMATION

Under current United States federal income tax law, an agent making payments with respect to the Notes may be obligated to withhold from payments to a Holder. Holders who are United States persons as defined in the Internal Revenue Code of 1986, as amended, who wish to avoid the application of these withholding provisions should submit a completed IRS Form W-9 when presenting the Notes for payment. Holders who are not United States persons should submit an appropriate completed IRS Form W-8.

FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE

To: [Name of Paying Agent]

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Helix Energy Solutions Group, Inc. (the "Issuer") pursuant to Section 4.07 of that certain First Supplemental Indenture, dated as of August 14, 2020 (the "Supplemental Indenture") to that certain Indenture, dated as of August 14, 2020 (the "Base Indenture" and, together with the Supplemental Indenture, the "Indenture"), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Trustee, and requests and instructs the Issuer to purchase the entire principal amount of this Note, or the portion thereof (which is \$1,000 or an integral multiple thereof) below designated, in accordance with the terms of the Note and the Indenture at the Fundamental Change Repurchase Price, together with accrued and unpaid interest, to, but not including, the Fundamental Change Repurchase Date, to the registered Holder hereof.

Date: _____

Signature(s)

Signatures must be guaranteed by a qualified guarantor institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

Signature Guaranty

Principal amount to be redeemed (in an integral multiple of \$1,000, if less than all):

Certificate number (if applicable):

NOTICE: The signature to the foregoing election must correspond to the name as written upon the face of this Note in every particular, without any alteration or change whatsoever.

CONVERSION NOTICE

To convert this Note in accordance with the Indenture, check the box:

To convert only part of this Note, state the principal amount to be converted (must be in integral multiples of \$1,000):

\$ _____

If you want the stock certificate representing the Common Stock, if any, issuable upon conversion made out in another person's name, fill in the form below:

(Insert other person's soc. sec. or tax I.D. no.)

(Print or type other person's name, address and zip code)

Date: _____ Signature(s): _____

(Sign exactly as your name(s) appear(s) on the other side of this Note)

Signature(s) guaranteed by:

(All signatures must be guaranteed by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.)

BAKER BOTTS LLP910 LOUISIANA
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MOSCOW
NEW YORK
PALO ALTO
RIYADH
SAN FRANCISCO
WASHINGTON

August 14, 2020

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043

Ladies and Gentlemen:

In connection with the issuance by Helix Energy Solutions Group, Inc., a Minnesota corporation (the “Company”), of an aggregate of 200,000,000 principal amount of the Company’s 6.75% Convertible Senior Notes due 2026 (the “Notes”), pursuant to (i) the Registration Statement on Form S-3 (Registration No. 333-234325) (the “Registration Statement”), which was filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Act”), and (ii) the related prospectus dated October 25, 2019, as supplemented by the prospectus supplement relating to the sale of the Notes dated August 11, 2020 (as so supplemented, the “Prospectus”), as filed by the Company with the Commission pursuant to Rule 424(b) under the Act, certain legal matters with respect to the Notes are being passed upon for the Company by us. At your request, this letter is being furnished to you for filing as Exhibit 5.1 to the Company’s Current Report on Form 8-K to be filed with the Commission on the date hereof (the “Form 8-K”).

The Registration Statement has been filed with the Commission and became effective under the Act upon filing. The Prospectus has been filed by the Company with the Commission pursuant to Rule 424(b) under the Act, including all documents incorporated by reference therein. On August 11, 2020, the Company entered into an Underwriting Agreement (the “Underwriting Agreement”) with Wells Fargo Securities, LLC and Evercore Group L.L.C., as representatives of the several underwriters named therein (the “Underwriters”), providing for the issuance and sale by the Company to the Underwriters of the Notes.

The opinion set forth herein relates only to certain matters regarding the Notes. In our capacity as your counsel in the connection referred to above, we have examined originals, or copies, certified or otherwise identified, of (i) the 2005 Amended and Restated Articles of Incorporation of the Company and the Second Amended and Restated By-laws of the Company, each as amended to date; (ii) the Underwriting Agreement, filed as an exhibit to the Form 8-K; (iii) the Indenture, dated as of August 14, 2020 (the “Base Indenture”), between the Company, as issuer, and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), filed as Exhibit 4.1 to the Form 8-K, pursuant to which debt securities may be issued; (iv) the First Supplemental Indenture between the Company and the Trustee, filed as Exhibit 4.2 to the Form 8-K (the “Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), pursuant to which the Notes will be issued; (v) corporate records of the Company; (vi) certificates of public officials and of officers and other representatives of the Company; and (vii) statutes and such other records, certificates, documents and instruments and documents as we have deemed necessary or advisable as a basis for the opinion hereinafter expressed.

In giving such opinion, we have relied, to the extent we deemed proper, without independent investigation, upon certificates, statements and other representations of officers and other representatives of the Company and of governmental and public officials with respect to the accuracy and completeness of the material factual matters contained therein or covered thereby. In connection with this opinion, we have assumed, without independent investigation, that the signatures on all documents examined by us are genuine, that all documents submitted to us as originals are accurate and complete, that all documents submitted to us as certified or photostatic copies are true and correct copies of the originals thereof, that such original copies are accurate and complete and that all information submitted to us was accurate and complete. We have also assumed that the Notes will be offered and sold in compliance with applicable federal and state securities laws and in the manner described in the Prospectus and in accordance with the terms of the Underwriting Agreement. We have also assumed that the Base Indenture and the Supplemental Indenture has been or will be duly authorized, executed and delivered by the Trustee and will represent a valid and legally binding obligation of the Trustee. We have also assumed that the Base Indenture, the Supplemental Indenture and the Notes have been or will be duly authorized, executed and delivered by the Company.

On the basis of the foregoing, and subject to the assumptions, limitations and qualifications set forth herein, we are of the opinion that the Notes, when they have been duly authorized, executed, authenticated, issued and delivered in accordance with the provisions of the Indenture and duly purchased and paid for in accordance with the terms of the Underwriting Agreement, and when authenticated by the Trustee in the manner provided in the Indenture and delivered through the facilities of The Depository Trust Company against payment of the purchase price therefor, will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforceability thereof may be subject to (i) bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, moratorium or similar laws of general applicability relating to or affecting creditors' rights and remedies, (ii) general principles of equity, comity and public policy (regardless of whether enforcement is sought in a proceeding at law or in equity), (iii) the discretion of the court before which any proceeding may be brought or (iv) applicable law relating to fiduciary duties and indemnification and contribution and any implied covenant of good faith and fair dealing.

We have relied as to matters of Minnesota law upon the opinion of Maslon LLP filed as Exhibit 5.2 to the Form 8-K. The opinion set forth above is limited in all respects to the contract law of the State of New York and the applicable federal laws of the United States, in each case as in effect on the date hereof.

We hereby consent to the filing of this letter with the Commission as Exhibit 5.1 to the Form 8-K. We also consent to the reference to our Firm under the heading "Legal Matters" in the Prospectus. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,
/s/ Baker Botts L.L.P.

August 14, 2020

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North
Suite 400
Houston, TX 77043

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special Minnesota counsel to Helix Energy Solutions Group, Inc., a Minnesota corporation (the "Company"), in connection with the issuance of up to \$200,000,000 aggregate principal amount of the Company's 6.75% Convertible Senior Notes due 2026 (the "Notes") under a senior debt indenture, dated as of August 14, 2020 (the "Senior Debt Indenture"), and a first supplemental indenture, to be dated as of August 14, 2020 (the "Supplemental Indenture," and together with the Senior Debt Indenture, the "Indenture"), between the Company and The Bank of New York Mellon Trust Company, N.A., as trustee, and included in a registration statement on Form S-3 under the Securities Act of 1933, as amended (the "Securities Act"), filed with the Securities and Exchange Commission (the "Commission") on October 25, 2019 (Registration No. 333-234325) (the "Registration Statement"), a Prospectus Supplement dated August 11, 2020, and an underwriting agreement, dated August 11, 2020 (the "Underwriting Agreement"), among the Company and Wells Fargo Securities, LLC and Evercore Group L.L.C., as representatives of the several underwriters listed in Schedule I to the Underwriting Agreement.

The Notes are being offered and sold as described in the Prospectus. The Notes are convertible, in accordance with their terms and the terms of the Indenture, into cash, shares of common stock, no par value, of the Company (the "Common Stock") or a combination thereof at the election of the Company. The shares of Common Stock initially issuable upon conversion of the Notes (including the maximum number of such shares initially issuable under the Indenture) are referred to herein as the "Conversion Shares."

This opinion is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the Prospectus, other than as expressly stated herein with respect to the issue of the Notes.

As the basis for the opinion hereinafter expressed, we have examined and relied upon:

- (a) the Registration Statement, including the Prospectus;
- (b) the Senior Debt Indenture;
- (c) a form of the Supplemental Indenture;
- (d) the Underwriting Agreement;
- (e) a form of the Notes in global form;
- (f) certain resolutions of the Board of Directors of the Company adopted effective as of August 9, 2020 and of the Finance Committee of the Board of Directors of the Company adopted effective as of August 11, 2020, as certified by the Corporate Secretary of the Company on the date hereof as being true, complete and correct and in full force and effect, relating to, among other things, the execution and delivery of the Underwriting Agreement and the issuance and sale of the Notes;
- (g) the 2005 Amended and Restated Articles of Incorporation of the Company certified to be true and correct by the Minnesota Secretary of State as of August 3, 2020;
- (h) the Second Amended and Restated Bylaws of the Company certified to be true and correct by the Corporate Secretary of the Company as of the date hereof;
- (i) a certificate from the Minnesota Secretary of State indicating that the Company was in "good standing" in Minnesota as of August 3, 2020; and
- (j) originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary or advisable for the purpose of rendering this opinion.

In connection with rendering the opinions set forth below, we have assumed that:

- (a) all information contained in all documents reviewed by us is true and correct;
- (b) all signatures on all documents examined by us are genuine;
- (c) all documents submitted to us as originals are authentic and all documents submitted to us as copies conform to the originals of those documents; and
- (d) the due authorization, execution and delivery of all documents by all parties and the validity, binding effect and enforceability thereof on such parties (other than the authorization, execution and delivery of documents by the Company).

Based on the foregoing and on such legal considerations as we deem relevant, we are of the opinion that:

1. The Company has been duly incorporated and is validly existing and in good standing under the laws of the State of Minnesota.
2. The Company has the corporate power to enter into and perform its obligations under the Indenture. All necessary corporate action for the due and proper authorization, execution and delivery of the Indenture and the consummation of the transactions contemplated thereby has been duly and validly taken.
3. The issuance of the Notes has been duly authorized by all necessary corporate action of the Company.
4. The Conversion Shares have been authorized by all necessary corporate action of the Company and reserved for issuance upon conversion of the Notes and will be validly issued, fully paid and non-assessable, assuming the issuance of the Conversion Shares upon the conversion of the Notes on the date hereof in accordance with the terms of the Notes and the Indenture.

The foregoing opinions are limited to the laws of the State of Minnesota and we are expressing no opinion as to the effect of the laws of any other jurisdiction, domestic or foreign.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.2 to the Current Report on Form 8-K to be filed by the Company relating to the Registration Statement and to the reference to our firm under the heading "Legal Matters" in the Prospectus. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Sincerely,

/s/ Maslon LLP

Maslon LLP

[Dealer name and address]

To: Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043

From: [Dealer]

Re: Capped Call Transaction

Date: August 11, 2020

Dear Ladies and Gentlemen:

The purpose of this communication (this “**Confirmation**”) is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the “**Transaction**”) between [_____] (“**Dealer**”) and Helix Energy Solutions Group, Inc. (“**Counterparty**”). This communication constitutes a “Confirmation” as referred to in the Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the “**2006 Definitions**”) and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”, and together with the 2006 Definitions, the “**Definitions**”), in each case as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern and in the event of any inconsistency between terms defined in the Equity Definitions and this Confirmation, this Confirmation shall govern.

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the “**Agreement**”) in the form of the 2002 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form on the Trade Date (but without any Schedule except for (i) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine, [(ii) the provision of an executed guarantee of [_____] (“**Guarantor**”) dated as of the Trade Date in substantially the form attached hereto as Schedule 1 as a Credit Support Document, (iii) the election of Guarantor as Credit Support Provider in relation to Dealer and (iv)]¹ [and (ii)] the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer, (a) with a “Threshold Amount” of 3% of the shareholders’ equity of [Dealer] [Dealer’s ultimate parent] on the Trade Date, (b) “Specified Indebtedness” having the meaning set forth in Section 14 of the Agreement, except that it shall not include any obligation in respect of deposits received in the ordinary course of Dealer’s banking business, (c) the phrase “, or becoming capable at such time of being declared,” shall be deleted from clause (1) of such Section 5(a)(vi) of the Agreement, and (d) the following sentence shall be added to the end of Section 5(a)(vi) of the Agreement: “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (i) the default was caused solely by error or omission of an administrative or operational nature; (ii) funds were available to enable the relevant party to make payment when due; and (iii) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”).

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

¹ Include if Dealer provides a guarantee.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date: August 11, 2020

Effective Date: August 14, 2020, or such other date as agreed by the parties in writing.

Components: The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Options and Expiration Date set forth in Annex A to this Confirmation. The exercise, valuation and settlement of the Transaction will be effected separately for each Component as if each Component were a separate Transaction under the Agreement.

Option Style: "European", as described under "Procedures for Exercise" below.

Option Type: Call

Seller: Dealer

Buyer: Counterparty

Shares: The Common Stock of Counterparty, no stated par value (Exchange Symbol: "HLX").

Number of Options: For each Component, as provided in Annex A to this Confirmation.²

Option Entitlement: One Share per Option

Strike Price: USD [_____]

Cap Price: USD [_____]; *provided* that in no event shall the Cap Price be reduced to an amount less than the Strike Price in connection with any adjustment by the Calculation Agent under this Confirmation.

Number of Shares: As of any date, a number of Shares equal to the product of (i) the Number of Options and (ii) the Option Entitlement.

² The total should be equal to (i) the number of Convertible Securities in principal amount of \$1,000 initially issued on the closing date for the Convertible Securities *multiplied by* (ii) the initial conversion rate *multiplied by* (iii) Dealer's percentage allocation of the overall capped call.

Premium: USD [_____]; Dealer and Counterparty hereby agree that notwithstanding anything to the contrary herein or in the Agreement, following the payment of the Premium, in the event that (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement that is within Counterparty's control) occurs or is designated with respect to any Transaction and, as a result, Counterparty owes to Dealer the amount calculated under Section 6(d) and Section 6(e) or otherwise under the Agreement (calculated as if the Transactions terminated on such Early Termination Date were the sole Transactions under the Agreement) or (b) Counterparty owes to Dealer, pursuant to Sections 12.2, 12.3, 12.6, 12.7, 12.8 or 12.9 of the Equity Definitions or otherwise under the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.

Premium Payment Date: The Effective Date

Exchange: The New York Stock Exchange

Related Exchange: All Exchanges; *provided* that Section 1.26 of the Equity Definitions shall be amended to add the words "United States" before the word "exchange" in the tenth line of such Section.

Procedures for Exercise:

Expiration Time: The Valuation Time

Expiration Date: For any Component, as provided in Annex A to this Confirmation (or, if such date is not a Scheduled Valid Day, the next following Scheduled Valid Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for such Component shall be the first succeeding Scheduled Valid Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction hereunder; and *provided further* that in no event shall the Expiration Date be postponed to a date later than the Final Termination Date and, notwithstanding anything to the contrary in this Confirmation or the Equity Definitions, if the Expiration Date is a Disrupted Day and is deemed to occur on the Final Termination Date as described in this proviso, the Relevant Price for such Expiration Date shall be the prevailing market value per Share determined by the Calculation Agent in a good faith and commercially reasonable manner. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may determine in a good faith and commercially reasonable manner that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall make commercially reasonable adjustments to the Number of Options for the relevant Component for which such day shall be the Expiration Date, shall designate the Scheduled Valid Day determined in the manner described in the immediately preceding sentence as the Expiration Date for the remaining Options for such Component and may determine the Relevant Price in a commercially reasonable manner based on transactions in the Shares on such Disrupted Day taking into account the nature and duration of such Market Disruption Event on such day. Any Scheduled Valid Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Valid Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Valid Day is scheduled following the date hereof, then such Scheduled Valid Day shall be deemed to be a Disrupted Day in full. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.

Final Termination Date:	[●] ³
Automatic Exercise:	Applicable; and means that the Number of Options for the relevant Component will be deemed to be automatically exercised at the Expiration Time on the Expiration Date for such Component if at such time such Component is In-the-Money, unless Buyer notifies Seller (in writing) prior to the Expiration Time on such Expiration Date that it does not wish Automatic Exercise to occur with respect to such Component, in which case Automatic Exercise will not apply with respect to such Component. “In-the-Money” means, in respect of any Component, that the Relevant Price on the Expiration Date for such Component is greater than the Strike Price for such Component.
Valuation Time:	At the close of trading of the regular trading session on the Exchange; <i>provided</i> that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in a good faith and commercially reasonable manner.
Valuation Date:	For any Component, the Expiration Date therefor.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended by deleting the words “during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be,” in clause (ii) thereof. Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term “Scheduled Closing Time” in the fourth line thereof.
Settlement Terms:	
Settlement Method Election:	Applicable; <i>provided</i> that (a) Section 7.1 of the Equity Definitions is hereby amended by replacing the term “Physical Settlement” with the term “Net Share Settlement”, (b) Counterparty must make a single irrevocable election for all Components and (c) if Counterparty is electing Cash Settlement, such Settlement Method Election would be effective only if Counterparty represents and warrants to Dealer in writing on the date of such Settlement Method Election that (i) Counterparty is not in possession of any material non-public information regarding Counterparty or the Shares, and (ii) such election is being made in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws. Without limiting the generality of the foregoing, Counterparty acknowledges its responsibilities under applicable securities laws, and in particular Sections 9 and 10(b) of the Securities Exchange Act of 1934, as amended (the “ Exchange Act ”) and the rules and regulations promulgated thereunder in respect of such election.
Electing Party:	Counterparty

³ [To be 2x valuation period, i.e., 80 STDs following the final Expiration Date.]

Settlement Method Election Date:	The second Scheduled Valid Day prior to the scheduled Expiration Date for the Component with the earliest scheduled Expiration Date.
Default Settlement Method:	Net Share Settlement
Net Share Settlement:	<p>With respect to any Component, if Net Share Settlement is applicable to the Options exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the Settlement Date, a number of Shares (the “Net Share Settlement Amount”) equal to (i) the Daily Option Value on the Expiration Date of such Component <i>divided by</i> (ii) the Relevant Price on such Expiration Date.</p> <p>Dealer will deliver cash in lieu of any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the Expiration Date of such Component.</p>
Cash Settlement:	With respect to any Component, if Cash Settlement is applicable to the Options exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the Settlement Date, an amount of cash (the “ Cash Settlement Amount ”) equal to the Daily Option Value on the Expiration Date of such Component.
Delivery Obligation:	The Net Share Settlement Amount or the Cash Settlement Amount payable or deliverable in respect of all Components on the Settlement Date.
Daily Option Value:	For any Component, an amount equal to (i) the Number of Options in such Component, <i>multiplied by</i> (ii) the Option Entitlement <i>multiplied by</i> (iii)(A) the lesser of the Relevant Price on the Expiration Date of such Component and the Cap Price, minus (B) the Strike Price on such Expiration Date; <i>provided</i> that if the calculation contained in clause (iii) above results in a negative number, the Daily Option Value for such Component shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the Exchange. If the Shares are not listed, quoted or traded on any U.S. securities exchange or any other market, “ Valid Day ” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the Exchange. If the Shares are not listed, quoted or traded on any U.S. securities exchange or any other market, “ Scheduled Valid Day ” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or other day on which banking institutions are authorized or required by law, regulation or executive order to close or be closed in the State of New York.

Relevant Price: On any Valid Day, the per Share volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg page “HLX <equity> AQR” (or its equivalent successor if such page is not available) (the “VWAP”) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable at such time, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a good faith and commercially reasonable manner using, if practicable, a volume-weighted average method substantially similar to the method for determining the VWAP). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

Settlement Date: For all Components of the Transaction, the date one Settlement Cycle immediately following the Expiration Date for the Component with the latest scheduled Expiration Date.

Settlement Currency: USD

Other Applicable Provisions: The provisions of Sections 9.1(c), 9.8, 9.9, 9.11 and 9.12 of the Equity Definitions will be applicable, except that all references in such provisions to “Physical Settlement” shall be read as references to “Net Share Settlement.”

Representation and Agreement: Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions, obligations and limitations arising from Counterparty’s status as issuer of the Shares under applicable securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “Securities Act”)).

Adjustments:

Method of Adjustment: Calculation Agent Adjustment; *provided* that the parties agree that (x) open market Share repurchases at prevailing market prices and (y) Share repurchases through a dealer pursuant to accelerated share repurchases, forward contracts or similar transactions (including, without limitation, any discount to average VWAP prices) that are entered into at prevailing market prices and in accordance with customary market terms for transactions of such type to repurchase the Shares shall not be considered Potential Adjustment Events if and so long as, after giving effect to any such proposed transaction described in clause (x) or (y), the aggregate number of Shares repurchased during the term of the Transaction pursuant to all such transactions described in clauses (x) and (y) would not exceed 20% of the number of Shares outstanding as of the Trade Date, as determined by the Calculation Agent and as adjusted by the Calculation Agent in a commercially reasonable manner to account for any subdivision or combination with respect to the Shares.

Extraordinary Events:

New Shares:	In the definition of New Shares in Section 12.1(i) of the Equity Definitions, (a) the text in clause (i) thereof shall be deleted in its entirety and replaced with “publicly quoted, traded or listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or their respective successors),” and (b) the following phrase shall be inserted immediately prior to the period: “and (iii) of a corporation organized under the laws of the United States, any State thereof or the District of Columbia that (x) also becomes the Counterparty under the Transaction or (y) agrees to be subject to Sections 8(d) and 8(e) of the Confirmation governing the Transaction, in either case, following such Merger Event or Tender Offer”.
Merger Events:	Applicable
Consequences of Merger Events:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination); <i>provided</i> that the Calculation Agent may elect Modified Calculation Agent Adjustment or Component Adjustment for all or part of the Transaction
Tender Offer:	Applicable; <i>provided</i> that the definition of “Tender Offer” in Section 12.1(d) of the Equity Definitions will be amended by replacing the phrase “greater than 10% and less than 100% of the outstanding voting shares of Counterparty” in the third and fourth line thereof with “(a) greater than 20% and less than 100% of the outstanding Shares of Counterparty”.
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Modified Calculation Agent Adjustment
(c) Share-for-Combined:	Modified Calculation Agent Adjustment

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (x) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (*provided* that in no event shall the Cap Price be less than the Strike Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event” shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall, in good faith and a commercially reasonable manner, determine whether the relevant Announcement Event has had a material economic effect on the Transaction and, if so, shall adjust the Cap Price accordingly to take into account such economic effect in a commercially reasonable manner on one or more occasions on or after the date of the Announcement Event up to, and including, the final Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable; *provided further* that upon the Calculation Agent making an adjustment, determined in a commercially reasonable manner, to the Cap Price upon any Announcement Event, then the Calculation Agent shall make a commercially reasonable adjustment to the Cap Price upon any announcement regarding the same event that gave rise to the original Announcement Event regarding the abandonment of any such event to the extent necessary to reflect the economic effect of such subsequent announcement on the Transaction (provided that in no event shall the Cap Price be less than the Strike Price).

Announcement Event:

(i) The public announcement (whether by Counterparty or a Valid Third Party Entity) of any transaction or event that, if completed, would constitute a Merger Event or Tender Offer, or the announcement by Counterparty of any intention to enter into a Merger Event or Tender Offer, (ii) the public announcement by Counterparty of an intention by Counterparty to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer, (iii) there occurs a public announcement (whether by Counterparty or a Valid Third Party Entity) of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement or (iv) any subsequent public announcement (whether by Counterparty or a Valid Third Party Entity) of a change to a transaction or intention that is the subject of an announcement of the type described in clause (i), (ii) or (iii) of this sentence (including, without limitation, a new announcement relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention); *provided* that, for the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” “Merger Event” shall mean such term as defined under Section 12.1(b) of the Equity Definitions (but, for the avoidance of doubt, the remainder of the definition of “Merger Event” in Section 12.1(b) of the Equity Definitions following the definition of “Reverse Merger” therein shall be disregarded).

Valid Third Party Entity:	In respect of any transaction or event, any third party that has a bona fide intent to enter into or consummate such transaction or event (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).
Notice of Merger Consideration and Consequences:	Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the relevant Merger Date) notify the Calculation Agent of (i) the type and amount of consideration that a holder of Shares would have been entitled to in the case of reclassifications, consolidations, mergers, sales or transfers of assets or other transactions that cause Shares to be converted into the right to receive more than a single type of consideration and (ii) the weighted average of the types and amounts of consideration to be received by the holders of Shares that affirmatively make such an election.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); <i>provided</i> that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
(a) Change in Law:	Applicable; <i>provided</i> that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) by adding the phrase “and/or Hedge Position” after the word “Shares” in clause (X) thereof and (iii) by immediately following the word “Transaction” in clause (X) thereof, adding the phrase “in the manner contemplated by the Hedging Party on the Trade Date”.
(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; <i>provided</i> that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following sentence at the end of such Section: “For the avoidance of doubt, (i) the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk, and (ii) the transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing and other terms.”; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

(e) Increased Cost of Hedging:	Not Applicable
Hedging Party:	Dealer
Determining Party:	For all applicable Extraordinary Events, Dealer; all calculations and determinations made by the Determining Party shall be made in good faith and in a commercially reasonable manner; <i>provided</i> that, upon receipt of written request from Counterparty, the Determining Party shall promptly provide Counterparty with a written explanation via email describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, in a commonly used file format for the storage and manipulation of financial data, but without disclosing Determining Party's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

3. Calculation Agent: Dealer; *provided* that, following the occurrence of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for five (5) Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized third-party dealer in over-the-counter corporate equity derivatives to act, during the period commencing on the date such Event of Default occurred and ending on the Early Termination Date with respect to such Event of Default, as the Calculation Agent.

All calculations and determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner; *provided* that, upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation via email describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.

4. Account Details:

Dealer Payment Instructions:

Bank: [_____]
SWIFT: [_____]
Bank [_____]
Routing:
Acct [_____]
Name:
Acct No.: [_____]

Counterparty Payment Instructions: To be advised.

5. Offices:

The Office of Dealer for the Transaction is: [_____]

[Dealer's Office Address]

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

To: Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: []
Email: []

With a copy to:

To: Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: []
Email: []

(b) Address for notices or communications to Dealer:

To: []
[]
[]
Attention: []
Telephone: []
Facsimile: []
Email: []

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date (A) none of Counterparty and its officers and directors is aware of any material non-public information regarding Counterparty or the Shares, and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Exchange Act when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Counterparty is not on the Trade Date engaged in a “distribution”, as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) of any securities of Counterparty, other than (i) a distribution meeting the requirements of the exceptions set forth in Rule 101(b)(10) and Rule 102(b)(7) of Regulation M and (ii) the distribution of the Convertible Notes (as defined below). Counterparty shall not, until the Second Exchange Business Day immediately following the Trade Date, engage in any such distribution.

(iii) On the Trade Date, neither Counterparty nor any “affiliated purchaser” (as defined in Rule 10b-18 of the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer and except for repurchase of Counterparty’s 4.25% Convertible Senior Notes due 2022 and Counterparty’s 4.125% Convertible Senior Notes due 2023 as contemplated by the prospectus supplement related to the offering of the Convertible Notes.

(iv) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity’s Own Equity* (or any successor issue statements).

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule 13e-1 or Rule 13e-4 under the Exchange Act.

(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty’s board of directors [(or an authorized committee thereof)] authorizing the Transaction, and approving the Transaction and any related hedging activity for purposes of Section 302A.673 of the Minnesota Business Corporation Act, and such other certificate or certificates as Dealer shall reasonably request.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an “investment company,” as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On and immediately after each of the Trade Date and the Premium Payment Date, (A) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”)) and (B) Counterparty would be able to purchase the aggregate Number of Shares with respect to the Transaction in compliance with the laws of the jurisdiction of Counterparty’s incorporation.

(x) To Counterparty’s knowledge, no U.S. state or local law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that no such representation shall be made by Counterparty with respect to any rules and regulations applicable to Dealer (including the Financial Industry Regulatory Authority, Inc.) arising from Dealer’s status as a regulated entity under applicable law.

(xi) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing, and (C) has total assets of at least \$50 million on the date hereof.

(xii) [Counterparty represents and warrants that it and any of its subsidiaries has not applied, and shall not until after the first date on which no portion of the Transaction remains outstanding following any final exercise and settlement, cancellation or early termination of the Transaction, apply, for a loan, loan guarantee, direct loan (as that term is defined in the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”)) or other investment, or to receive any financial assistance or relief under any program or facility (collectively “**Financial Assistance**”) that (i) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (ii) (A) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) as a condition of such Financial Assistance, that Counterparty comply with any requirement not to, or otherwise agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in the condition, made a capital distribution or will make a capital distribution, or (B) where the terms of the Transaction would cause Counterparty under any circumstances to fail to satisfy any condition for application for or receipt or retention of the Financial Assistance (collectively “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (x) determines based on the advice of outside counsel of national standing that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such Financial Assistance based on the terms of the program or facility as of the date of such advice or (y) delivers to Dealer evidence or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of the Transaction (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects).]⁴

⁴ Subject to review by bidding Dealers.

(b) Each of Dealer and Counterparty agrees and represents that it is an “eligible contract participant” as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended, and is entering into the Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise) and not for the benefit of any third party.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act, by virtue of Section 4(a)(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an “accredited investor” as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges that Dealer is a “financial institution,” “swap participant” and “financial participant” within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a “securities contract,” as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a “termination value,” “payment amount” or “other transfer obligation” within the meaning of Section 362 of the Bankruptcy Code and a “settlement payment” within the meaning of Section 546 of the Bankruptcy Code, and (ii) a “swap agreement,” as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a “termination value,” “payment amount” or “other transfer obligation” within the meaning of Section 362 of the Bankruptcy Code and a “transfer” within the meaning of Section 546 of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 362(b)(27), 362(o), 546(e), 546(g), 546(j), 548(d)(2), 555, 560 and 561 of the Bankruptcy Code.

(e) As a condition to the effectiveness of the Transaction, Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to certain of the matters set forth in Section 3(a)(i), (ii), (iii) and (iv) of the Agreement, Section 7(a)(viii) hereof; *provided* that any such opinion of counsel may contain customary exceptions and qualifications, including, without limitation, exceptions and qualifications relating to indemnification provisions.

(f) Counterparty understands that notwithstanding any other relationship between Counterparty and Dealer and its affiliates, in connection with the Transaction and any other over-the-counter derivative transactions between Counterparty and Dealer or its affiliates, Dealer or its affiliates is acting as principal and is not a fiduciary or advisor in respect of any such transaction, including any entry, exercise, amendment, unwind or termination thereof.

(g) Each party acknowledges and agrees to be bound by the Conduct Rules of the Financial Industry Regulatory Authority, Inc. applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.

(h) Counterparty represents and warrants that it has received, read and understands the OTC Options Risk Disclosure Statement and a copy of the most recent disclosure pamphlet prepared by The Options Clearing Corporation entitled “Characteristics and Risks of Standardized Options”.

8. Other Provisions:

(a) *Right to Extend.* Dealer may divide any Component into additional Components and designate the Expiration Date and the Number of Options for each such Component if Dealer determines, in good faith and a commercially reasonable manner, that such further division is necessary or advisable to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions or to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be compliant and consistent with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures, generally applicable to transactions of the type of the Transaction; *provided* that in no event shall any Expiration Date for any Component be postponed to a date later than the Final Termination Date.

(b) *Additional Termination Events.* Promptly (but in any event within ten Scheduled Trading Days) following any repurchase, redemption or conversion of any of Counterparty's [_____] % Convertible Senior Notes due 2026 (the "**Convertible Notes**") issued pursuant to an indenture, to be dated as of or about August 14, 2020, between Counterparty and The Bank of New York Mellon Trust Company, N.A., as trustee, as supplemented by the First Supplemental Indenture thereto, to be dated as of or about August 14, 2020, Counterparty may, but is not required to, notify Dealer in writing of (i) such repurchase, redemption or conversion, (ii) the number of Convertible Notes so repurchased, redeemed or converted and (iii) the number of Shares underlying such repurchased, redeemed or converted Convertible Notes (any such notice, a "**Repurchase Notification**" and any such event, a "**Repurchase Event**"). Notwithstanding anything to the contrary in this Confirmation, the receipt by Dealer from Counterparty of (x) any Repurchase Notification, within the applicable time period set forth in the preceding sentence, and (y) a written representation and warranty by Counterparty that, as of the date of such Repurchase Notification, Counterparty is not in possession of any material non-public information regarding Counterparty or the Shares, shall constitute an Additional Termination Event as provided in this paragraph. Upon receipt of any such Repurchase Notification and the related written representation and warranty, Dealer shall promptly designate an Exchange Business Day following receipt of such Repurchase Notification as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repurchase Options**") equal to the lesser of (A) the product of (I) [_____] %⁵ and (II) the number of Shares underlying the Convertible Notes specified in such Repurchase Notification as described in clause (iii) above and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repurchase Options on a pro rata basis across the Components for the Transaction, as determined by the Calculation Agent in a commercially reasonable manner. Any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and an aggregate Number of Options equal to the number of Repurchase Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction.

(c) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to all holders of Shares consists solely of cash, (ii) a Merger Event or Tender Offer that is within Counterparty's control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) and 6(e) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below) unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) as of the date of such election, Counterparty represents that is not in possession of any material non-public information regarding Counterparty or the Shares, and that such election is being made in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws, and (c) Dealer agrees, in its sole commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and 6(e) of the Agreement, as the case may be, shall apply.

⁵ Insert Dealer's percentage allocation of the overall capped call.

Share Termination Alternative:	If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation. For the avoidance of doubt, the parties agree that in determining the Share Termination Delivery Unit Price the Calculation Agent may consider a variety of factors, including the market price of the Share Termination Delivery Units and/or the purchase price paid in connection with the commercially reasonable purchase of Share Termination Delivery Property.
Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "Exchange Property"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent.
Failure to Deliver:	Applicable
Other Applicable Provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption "Representation and Agreement" in Section 2 will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Termination Settled" and all references to "Shares" shall be read as references to "Share Termination Delivery Units". "Share Termination Settled" in relation to the Transaction means that the Share Termination Alternative is applicable to the Transaction.

(d) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of legal counsel, the Shares acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction in a commercially reasonable manner (the “**Hedge Shares**”) cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, use its commercially reasonable efforts to make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering for companies of a similar size in a similar industry, (B) provide accountant’s “comfort” letters in customary form for registered offerings of equity securities for companies of a similar size in a similar industry, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty in customary form for registered offerings of equity securities for companies of a similar size in a similar industry, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities for companies of a similar size in a similar industry and (E) afford Dealer a reasonable opportunity to conduct a “due diligence” investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities for companies of a similar size in a similar industry; *provided, however,* that, if Counterparty elects clause (i) above but Dealer, in its commercially reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(d) shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of companies of a similar size in a similar industry, in form and substance commercially reasonable satisfactory to Dealer using best efforts to include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements of equity securities of companies of a similar size in a similar industry, as is reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its good faith and commercially reasonable judgment, to compensate Dealer for any customary liquidity discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the Relevant Price on such Exchange Business Days, and in the amounts, requested by Dealer.

(e) *Repurchase Notices.* Counterparty shall, at least one Scheduled Valid Day prior to any day on which Counterparty intends to effect any repurchase of Shares, give Dealer written notice of such repurchase (a “**Repurchase Notice**”) on such day if, following such repurchase, the Notice Percentage would reasonably be expected to be (i) greater than [_____]6% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof); *provided that,* in the case of any repurchases of Shares pursuant to a plan under Rule 10b5-1 under the Exchange Act, Counterparty may elect to satisfy such requirement by promptly giving Dealer written notice of entry into such plan, the maximum number of Shares that may be purchased thereunder and the approximate dates or periods during which such repurchases may occur (with such maximum number of Shares deemed repurchased on the date of such notice for purposes of this Section 8(e)). The “**Notice Percentage**” as of any day is the fraction, expressed as a percentage, the numerator of which is the aggregate Number of Shares *plus* the number of Shares underlying any other capped call transactions sold by Dealer to Counterparty and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(e) then Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an “**Indemnified Party**”) from and against any and all reasonable losses (including losses relating to Dealer’s commercially reasonable hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider”, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act or under any U.S. state or federal law, regulation or regulatory order, in each case relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for reasonable out-of-pocket expenses (including reasonable out-of-pocket counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty, in each case relating to or arising out of such failure. This indemnity shall survive any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer. Counterparty will not be liable under this indemnity provision to the extent any loss, claim, damage, liability or expense is found in a final judgment by a court of competent jurisdiction to have resulted from Dealer’s gross negligence or willful misconduct.

⁶ To be 0.5% higher than the number of Shares underlying the capped call of the Dealer with the highest Applicable Percentage.

(f) *Transfer and Assignment.*

(i) Dealer may transfer or assign any of its rights or obligations under the Transaction with the prior written consent of Counterparty, such consent not to be unreasonably withheld or delayed; *provided* that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (A) any affiliate or branch of Dealer (1) that has a long-term issuer rating that is equal to or better than Dealer's credit rating at the time of such transfer or assignment, or (2) whose obligations would be guaranteed by [Dealer] [Dealer's ultimate parent] or (B) any person (including any affiliate or branch of Dealer not satisfying clause (A)) or any person whose obligations would be guaranteed by a person (a "**Designated Transferee**"), in either case under this clause (B), with a rating for its long-term, unsecured and unsubordinated indebtedness at least equivalent to Dealer's (or its guarantor's), *provided, however*, that, in the case of this clause (B), in no event shall the credit rating of the Designated Transferee or of its guarantor (whichever is higher) be lower than A3 from Moody's Investor Service, Inc. or its successor or A- from Standard and Poor's Rating Group, Inc. or its successor; *provided further* that (i) Dealer will notify Counterparty in writing promptly following any transfer or assignment to a Designated Transferee, (ii) as a result of any such transfer or assignment, Counterparty will not be required to pay the transferee or assignee of such rights or obligations on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than the amount, if any, that Counterparty would have been required to pay Dealer in the absence of such transfer or assignment, (iii) after such transfer, Counterparty will not, as a result of any withholding or deduction made by the transferee or assignee as a result of any Tax, receive from the transferee or assignee on any payment date or delivery date (after accounting for amounts paid by the transferee or assignee under Section 2(d)(i)(4) of the Agreement as well as such withholding or deduction) an amount or a number of Shares, as applicable, lower than the amount or the number of Shares, as applicable that Dealer would have been required to pay or deliver to Counterparty in the absence of such Transfer, and (iv) prior to becoming a party to the Transaction, the transferee or assignee shall have made the Payee Tax Representations and provided such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clauses (ii) through (iii) of the immediately preceding proviso will not occur upon or after such transfer and assignment. If at any time at which (1) the Equity Percentage exceeds 8.0%, (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under Section 302A.673 of the Minnesota Business Corporation Act or any other federal, state or local law, rule, regulation or regulatory order or organizational documents or contracts of Counterparty applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting, registration, filing or notification obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Restrictions and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an "**Excess Ownership Position**"), if Dealer, in its reasonable discretion, is unable to effect a transfer or assignment to a third party in accordance with the requirements set forth above after its commercially reasonable efforts on pricing and terms and within a time period reasonably acceptable to Dealer such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Valid Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that an Excess Ownership Position no longer exists following such partial termination. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(c) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty were the sole Affected Party with respect to such partial termination, (iii) such portion of the Transaction were the only Terminated Transaction and (iv) Dealer were the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement and to determine the amount payable pursuant to Section 6(e) of the Agreement. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (collectively, "**Dealer Group**") "beneficially own" (within the meaning of Section 13 of the Exchange Act) without duplication on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding on such day.

(ii) Counterparty may transfer or assign any of its rights or obligations under the Transaction with the prior written consent of Dealer, such consent not to be unreasonably withheld or delayed. In the case of a transfer or assignment by Counterparty of its rights and obligations hereunder and under the Agreement, in whole or in part (any such Options so transferred or assigned, the “**Transfer Options**”), to any party, withholding of such consent by Dealer shall not be considered unreasonable if such transfer or assignment does not meet the following conditions:

(A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 8(e) or any obligations under Section 2 (regarding Extraordinary Events) or 8(d) of this Confirmation;

(B) Any Transfer Options shall only be transferred or assigned to a third party that is a U.S. person (as defined in the U.S. Internal Revenue Code of 1986, as amended (the “**Code**”));

(C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, undertakings with respect to compliance with applicable securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable securities laws) and execution of any documentation and delivery of customary legal opinions with respect to securities laws and other matters by such third party and Counterparty as are reasonably requested and reasonably satisfactory to Dealer;

(D) Dealer will not, as a result of such transfer or assignment, be required to pay or deliver, as the case may be, the transferee or assignee on any payment date an amount or number of Shares under Section 2(d)(i)(4) of the Agreement greater than the amount or number of Shares that Dealer would have been required to pay or deliver to Counterparty in the absence of such transfer or assignment;

(E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;

(F) Without limiting the generality of clause (B), Counterparty shall have caused the transferee or assignee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clause (D) will not occur upon or after such transfer or assignment; and

(G) Counterparty shall be responsible for all reasonable costs and expenses, including reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.

(iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty solely to the extent of any such performance.

(g) *Staggered Settlement.* If Dealer determines reasonably and in good faith that the number of Shares required to be delivered to Counterparty hereunder on any Settlement Date would result in an Excess Ownership Position, then Dealer may, by notice to Counterparty prior to such Settlement Date (a “**Nominal Settlement Date**”), elect to deliver any Shares due to be delivered on two or more dates (each, a “**Staggered Settlement Date**”) or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the 20th Exchange Business Day after such Nominal Settlement Date) or delivery times and how it will allocate the Shares it is required to deliver under “Delivery Obligation” (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; *provided* that in no event shall any Staggered Settlement Date be a date later than the Final Termination Date.

(h) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(i) *No Netting and Set-off.* The provisions of Section 2(c) of the Agreement shall not apply to the Transaction. Each party waives any and all rights it may have to set-off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between parties hereto, by operation of law or otherwise.

(j) *Equity Rights.* Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty’s bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty’s bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that the obligations of Counterparty under this Confirmation are not secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(k) *Early Unwind.* In the event the sale of the Notes (as defined in the Underwriting Agreement, dated as of August 11, 2020, between Wells Fargo Securities, LLC and Evercore Group L.L.C., as representatives of the several underwriters, and Counterparty (the “**Underwriting Agreement**”)) is not consummated pursuant to the Underwriting Agreement for any reason by the close of business in New York on August 14, 2020 (or such later date as agreed upon by the parties which in no event shall be later than the second Scheduled Valid Day following August 14, 2020) (such date or such later date as agreed upon being the “**Early Unwind Date**”), the Transaction shall automatically terminate on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date.

(l) *Illegality.* The parties agree that, for the avoidance of doubt, for purposes of Section 5(b)(i) of the Agreement, “any applicable law” shall include the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, any rules and regulations promulgated thereunder and any similar law or regulation, without regard to Section 739 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, and the consequences specified in the Agreement, including without limitation, the consequences specified in Section 6 of the Agreement, shall apply to any Illegality arising from any such act, rule or regulation.

(m) *Amendments to Equity Definitions and the Agreement*. The following amendments shall be made to the Equity Definitions:

(i) solely for purposes of applying the Equity Definitions and for purposes of this Confirmation, any reference in the Equity Definitions to a Strike Price shall be deemed to be a reference to either of the Strike Price or the Cap Price, or both, as appropriate;

(ii) for the purpose of any adjustment under Section 11.2(c) of the Equity Definitions, the first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: (c) If “Calculation Agent Adjustment” is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has, in the commercially reasonable judgment of the Calculation Agent, a material economic effect on the theoretical value of the relevant Shares or options on the Shares (*provided* that such event is not based on (x) an observable market, other than the market for Counterparty’s own stock or (y) an observable index, other than an index calculated and measured solely by reference to Counterparty’s own operations) and, if so, will (i) make appropriate adjustment(s), if any, determined in a commercially reasonable manner, to any one or more of: and, the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words “diluting or concentrative” and the words “(*provided* that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)” and replacing such latter phrase with the words “(*provided* that, solely in the case of Sections 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares but, for the avoidance of doubt, solely in the case of Sections 11.2(e)(ii)(B) through (D), (iii), (v), (vi) and (vii) adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)”;

(iii) Section 11.2(a) of the Equity Definitions is hereby amended by (1) deleting the words “in the determination of the Calculation Agent, a diluting or concentrative effect” and replacing these words with “in the commercially reasonable judgment of the Calculation Agent, a material economic effect”; and (2) adding at the end thereof “; *provided* that such event is not based on (i) an observable market, other than the market for Counterparty’s own stock or (ii) an observable index, other than an index calculated and measured solely by reference to Counterparty’s own operations”;

(iv) Section 11.2(e)(vii) of the Equity Definitions is hereby amended and restated as follows: “any other corporate event involving the Issuer that in the commercially reasonable judgment of the Calculation Agent has a material economic effect on the theoretical value of the Shares or options on the Shares; *provided* that such corporate event involving the Issuer is not based on (a) an observable market, other than the market for Counterparty’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Counterparty’s own operations.”; and

(v) Section 12.7(b) of the Equity Definitions is hereby amended by deleting the words “(and in any event within five Exchange Business Days) by the parties after” appearing after the words “agreed promptly” and replacing with the words “by the parties on or prior to”;

(n) *Governing Law; Exclusive Jurisdiction.*

(i) **THE AGREEMENT, THIS CONFIRMATION AND ALL MATTERS ARISING IN CONNECTION WITH THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE, OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW).**

(ii) **Section 13(b) of the Agreement is deleted in its entirety and replaced by the following:**

“Each party hereby irrevocably and unconditionally submits for itself and its property in any suit, legal action or proceeding relating to this Confirmation or the Agreement, or for recognition and enforcement of any judgment in respect thereof, (each, “Proceedings”) to the exclusive jurisdiction of the Supreme Court of the State of New York, sitting in New York County, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof. Nothing in this Confirmation or the Agreement precludes either party from bringing Proceedings in any other jurisdiction if (A) the courts of the State of New York or the United States of America for the Southern District of New York lack jurisdiction over the parties or the subject matter of the Proceedings or decline to accept the Proceedings on the grounds of lacking such jurisdiction; (B) the Proceedings are commenced by a party for the purpose of enforcing against the other party’s property, assets or estate any decision or judgment rendered by any court in which Proceedings may be brought as provided hereunder; (C) the Proceedings are commenced to appeal any such court’s decision or judgment to any higher court with competent appellate jurisdiction over that court’s decisions or judgments if that higher court is located outside the State of New York or Borough of Manhattan, such as a federal court of appeals or the U.S. Supreme Court; or (D) any suit, action or proceeding has been commenced in another jurisdiction by or against the other party or against its property, assets or estate and, in order to exercise or protect its rights, interests or remedies under this Confirmation or the Agreement, the party (1) joins, files a claim, or takes any other action, in any such suit, action or proceeding, or (2) otherwise commences any Proceeding in that other jurisdiction as the result of that other suit, action or proceeding having commenced in that other jurisdiction.”

(o) *Adjustments.* For the avoidance of doubt, whenever the Calculation Agent or Determining Party is called upon to make any calculation, determination or adjustment pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event, the Calculation Agent or Determining Party shall make such calculation, determination or adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.

(p) *Delivery or Receipt of Cash.* For the avoidance of doubt, other than payment of the Premium by Counterparty, nothing in this Confirmation shall be interpreted as requiring Counterparty to cash settle the Transaction, except in circumstances where cash settlement is within Counterparty’s control (including, without limitation, where Counterparty elects to deliver or receive cash) or in those circumstances in which holders of Shares would also receive cash.

(q) *Waiver of Jury Trial.* **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT, THIS CONFIRMATION OR ANY TRANSACTIONS CONTEMPLATED HEREBY.**

(r) *Amendment.* This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Counterparty and Dealer.

(s) *Counterparts.* This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(t) *Tax Matters.*

(i) *Payee Tax Representations.*

For the purpose of Section 3(f) of the Agreement, Counterparty makes the following representation to Dealer:

Counterparty is a corporation and a U.S. person (as that term is defined in Section 7701(a)(30) of the Code and used in Section 1.1441-4(a)(3)(ii) of the Treasury Regulations) for U.S. federal income tax purposes. Counterparty is “exempt” within the meaning of Sections 1.6041-3(p) and 1.6049-4(c) of the Treasury Regulations from information reporting on U.S. Internal Revenue Service Form 1099 and backup withholding.

For the purpose of Section 3(f) of the Agreement, Dealer makes the following representation to Counterparty:

[Dealer is a U.S. person (as that term is defined in Section 7701(a)(30) of the Code and used in Section 1.1441-4(a)(3)(ii) of the Treasury Regulations) for U.S. federal income tax purposes.]⁷

(ii) *Tax Documentation.* For the purpose of Sections 4(a)(i) and (ii) of the Agreement, Counterparty agrees to deliver to Dealer one duly executed and completed United States Internal Revenue Service Form W-9 (or successor thereto) and [Dealer agrees to deliver to Counterparty, as applicable, a U.S. Internal Revenue Service Form W-8 or Form W-9 (or successor thereto)]⁸. Such forms or documents shall be delivered upon (i) execution of this Confirmation, (ii) Counterparty or Dealer, as applicable, learning that any such tax form previously provided by it has become obsolete or incorrect, and (iii) reasonable request of the other party.

(u) *Withholding Tax imposed on payments to non-US counterparties under the United States Foreign Account Tax Compliance Act.* “Indemnifiable Tax”, as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a “**FATCA Withholding Tax**”). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(v) *Incorporation of ISDA 2015 Section 871(m) Protocol Provisions.* To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.

(w) *Wall Street Transparency and Accountability Act.* In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“**WSTAA**”), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party’s otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

⁷ Include appropriate tax representation for each Dealer.

⁸ Include appropriate tax form for each Dealer.

(x) [QFC Stay Provisions.

(i) *Recognition of the U.S. Special Resolution Regimes.*

(A) In the event that Dealer becomes subject to a proceeding under (I) the Federal Deposit Insurance Act and the regulations promulgated thereunder or (II) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder (a “**U.S. Special Resolution Regime**”), the transfer from Dealer of this Confirmation, and any interest and obligation in or under, and any property securing, this Confirmation, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Confirmation, and any interest and obligation in or under, and any property securing, this Confirmation were governed by the laws of the United States or a state of the United States.

(B) In the event that Dealer or an Affiliate becomes subject to a proceeding under a U.S. Special Resolution Regime, any Default Rights (as defined in 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable (“**Default Right**”)) under this Confirmation that may be exercised against Dealer are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Confirmation were governed by the laws of the United States or a state of the United States.

(ii) *Limitation on Exercise of Certain Default Rights Related to an Affiliate’s Entry Into Insolvency Proceedings.* Notwithstanding anything to the contrary in this Confirmation, the Parties expressly acknowledge and agree that:

(A) Counterparty shall not be permitted to exercise any Default Right with respect to this Confirmation or any Affiliate Credit Enhancement that is related, directly or indirectly, to an Affiliate of Dealer becoming subject to receivership, insolvency, liquidation, resolution, or similar proceeding (an “**Insolvency Proceeding**”), except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 382.4, as applicable; and

(B) Nothing in this Confirmation shall prohibit the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement, to a transferee upon or following an Affiliate of Dealer becoming subject to an Insolvency Proceeding, unless the transfer would result in the Counterparty being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to the Counterparty.

(iii) *U.S. Protocol.* If Counterparty has previously adhered to, or subsequently adheres to, the ISDA 2018 U.S. Resolution Stay Protocol as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018 (the “**ISDA U.S. Protocol**”), the terms of such protocol shall be incorporated into and form a part of this Confirmation and the terms of the ISDA U.S. Protocol shall supersede and replace the terms of this Section 8(x). For purposes of incorporating the ISDA U.S. Protocol, Dealer shall be deemed to be a Regulated Entity, Counterparty shall be deemed to be an Adhering Party, and this Confirmation shall be deemed to be a Protocol Covered Agreement. Capitalized terms used but not defined in this paragraph shall have the meanings given to them in the ISDA U.S. Protocol.

(iv) *Pre-existing In-Scope Agreements.* Dealer and Counterparty agree that to the extent there are any outstanding “in-scope QFCs,” as defined in 12 C.F.R. § 252.82(d), that are not excluded under 12 C.F.R. § 252.88, between Dealer and Counterparty that do not otherwise comply with the requirements of 12 C.F.R. § 252.2, 252.81–8 (each such agreement, a “**Preexisting In-Scope Agreement**”), then each such Preexisting In-Scope Agreement is hereby amended to include the foregoing provisions in this Section 8(x), with references to “this Confirmation” being understood to be references to the applicable Preexisting In-Scope Agreement.

For purposes of this Section 8(x):

“**Affiliate**” is defined in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“**Credit Enhancement**” means any credit enhancement or credit support arrangement in support of the obligations of Dealer under or with respect to this Confirmation, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin or any similar arrangement.]⁹

(y) [Insert Agency and other Dealer Boilerplate, If Applicable]

⁹ Include applicable QFC boilerplate for each Dealer

Please confirm that the foregoing correctly sets forth the terms of our agreement by sending to us a letter agreement substantially similar to this document, which letter agreement sets forth the material terms of the Transaction to which this Confirmation relates and indicates your agreement to those terms.

Yours faithfully,

[DEALER]

By:

Name:
Title:

Agreed and Accepted By:

HELIX ENERGY SOLUTIONS GROUP, INC.

By

Name:
Title:

Annex A

For each Component of the Transaction, the Number of Options and Expiration Date is set forth below.

Component Number	Number of Options	Expiration Date
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